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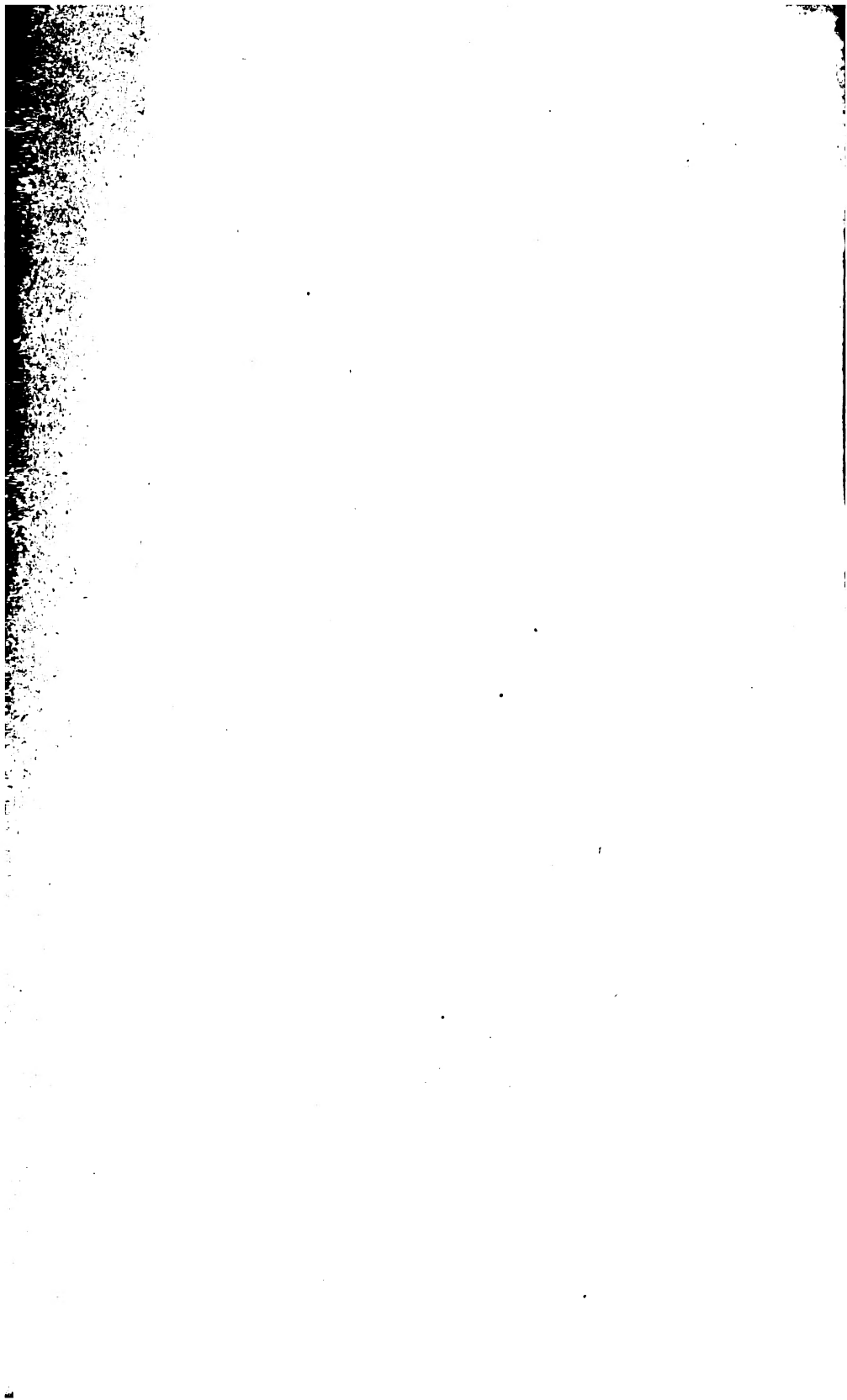
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SEVENTH ANNUAL REPORT

OF THE

Board of Railroad Commissioners

OF THE

STATE OF NEW YORK,

For the Fiscal Year Ending September 30, 1889.

TRANSMITTED TO THE LEGISLATURE JANUARY 18, 1890.

COMMISSIONERS:

WILLIAM E. ROGERS, | ISAAC V. BAKER, JR.,
MICHAEL RICKARD.

VOLUME I.

ALBANY:

JAMES B. LYON, STATE PRINTER.

1890.

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IN ASSEMBLY,

JANUARY 13, 1890.

SEVENTH ANNUAL REPORT

OF THE

BOARD OF RAILROAD COMMISSIONERS ON THE
RAILROADS OF THE STATE.

OFFICE OF THE
BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, January 13, 1890.

To the Speaker of the Assembly:

The Board of Railroad Commissioners, agreeably to the provisions of chapter 353, Laws of 1882, transmits herewith to the Legislature its Seventh Annual Report, for the year ending September 30, 1889.

WILLIAM C. HUDSON,

Secretary.



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REPORT.

STATE OF NEW YORK:

OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, January 13, 1890. }

To the Honorable the Legislature of the State of New York:

Chapter 353 of the Laws of 1882 requires the Board of Railroad Commissioners to report to the Legislature on or before the second Monday of January of each year. In conformity with this statute the Board submits its Seventh Annual Report.

GENERAL SITUATION.

The year ending September 30th, 1889, was marked with much less disturbance among the railroads of the country than that preceding it.

The volume of business was largely increased and rates maintained at more profitable figures.

Towards the close of the year 1888 matters had reached such a state through the reckless competition of irresponsible railroad managers, particularly in the territory west of the trunk lines, that it became evident to the owners of railroad property and to their representatives, the prominent bankers, that some action must be taken to arrest it, or a large proportion of hitherto profitable railroads would cease to be profitable, if they did not become actually bankrupt.

With this object in view the Interstate Commerce Railway Association was organized to take effect January 1st, 1889. The agreement was made between the presidents of twenty-six of the principal railroads west of what is known as the "trunk lines." The trunk lines themselves were not parties to the agreement. It superseded a number of other agreements affecting particular localities or routes.

The objects of the Association are stated in article 1 to be, "the enforcement of the provisions of the Interstate Commerce Act

and the establishment and maintenance of public, reasonable, uniform and stable rates in conformity with the provisions thereof."

Article 20 provides that "this agreement shall continue in force absolutely for ninety days from January the 1st, 1889, subject to thirty days' notice thereafter of the desire of any party to withdraw from or amend the same, and in case any such notice shall be given, the chairman of the Executive Board shall forthwith call the presidents together to consider the matter."

The Board understands that the agreement is still in force and has been, to a considerable extent at least, effective in correcting the abuses that it was intended to reach.

New articles of association between the trunk lines were entered into, to take effect February 20th, 1889. They begin with a preamble as follows:

"WHEREAS, Past experience has fully established the fact that the joint action of railroad companies is necessary to establish and maintain reasonable and just transportation tariffs on freight and passenger traffic; and,

"WHEREAS, Such joint action is also necessary to avoid unjust discrimination in transportation charges, in conformity with the requirements of the Interstate Commerce Law;

"Now, therefore," etc.

The articles are signed by the Grand Trunk, the New York Central and Hudson River, the West Shore, the New York, Ontario and Western, the Delaware, Lackawanna and Western, the New York, Lake Erie and Western, the Pennsylvania, the Lehigh Valley, the Philadelphia and Reading, and the Baltimore and Ohio railroad companies.

It can be said that as peaceful relations between the trunk lines and their affiliated connections have been maintained during the past year as have ever before, or are likely to be hereafter. When there is taken into consideration the enormous extent of railroad property owned or controlled by these organizations, this is a most significant fact.

The diminution of ruinous railroad competition during the last year was largely due to the facts, first, the very great increase of business, giving all a share; and second, the long and short haul provision of the Interstate Commerce Act.

Under the latter provision a railroad cannot reduce its through rates without reducing its locals at the same time. This, no railroad can afford to do, particularly in the eastern States and more thickly populated parts of the country, where the local business is by far the more reliable and profitable. There is no doubt in this respect that the Interstate Commerce Act has been instrumental in maintaining the stability of rates and of great benefit to the railroads and the community.

Many abuses still exist, however, in the commercial management of railroads, which it is difficult for the State to reach, as for instance the intentional delay in the return of freight cars by certain roads, often depriving others for months of their needed rolling stock; the permitting favored customers to use freight cars as warehouses, for days and weeks at a time, without charging demurrage; the reduction of rates to an unduly low point on certain articles, as for instance, soft coal, in order to crush or bring a competitor to terms, with a correspondingly unjust rise after the result is accomplished.

Perhaps the greatest difficulty that railroads, acting in good faith, have now to contend with, is to so adjust their rates, as between each other, that those having the longer routes or poorer facilities shall be enabled to obtain something like a satisfactory share of the business without reducing the rates to a point alike unprofitable to all. The former methods of pooling are now prohibited by law. The adjustment is, therefore, attempted by the stronger roads making to the weaker, concessions, termed "differentials," which are intended to represent as nearly as can be reached, the money value to the shipper or traveler of the superior facilities or agreeability of one route over the other.

Of course these differentials are uncertain as to their results and have to be modified from time to time to correct any unjust or unsatisfactory disturbance of the proportions of traffic to each road brought about thereby.

The uncertainty and unsatisfactory nature of this adjustment is such, however, that, as was indicated in the Report of this Board last year (p. x), a tendency towards the absorption of the weaker roads by the stronger, or of a general consolidation of all railroads in great groups, as in England, is distinctly visible. A circular

letter last summer to the presidents of the railroads of the east, west and north-west, setting forth such a plan, from a prominent citizen of New York, has been the subject of widespread comment and discussion. When and what the outcome will be it is impossible to state, but certain it is that the leaven of consolidation is at work.

Many regard such a result with grave apprehension, as likely to produce high rates, poor service, tyrannous disregard of complaints, if not a menace to free institutions themselves. Others, on the contrary, point to consolidations heretofore made, and show that they have generally resulted in lesser and more stable rates, improved service, abolition of unjust discrimination, and confidently assert that what the American people have created they will control.

SUMMARY OF BUSINESS FOR THE YEAR.

A largely increased business on the railroads of the State, as compared with the previous year's business, was again done last year. The total for all roads and the details for each are given with great particularity in the second volume of this Report. A few of the grand totals and most important final results are given here as usual :

	1888.	1889.
Gross earnings from operation of road	\$152,122,705 73	\$153,537,208 19
Operating expenses.....	101,606,061 79	101,739,493 88
Net earnings from operation of road.....	50,517,643 94	51,807,714 31
Income from other sources than operation of road.....	5,732,752 57	4,985,649 49
* Interest paid and accrued	26,477,594 88	26,793,733 43
Taxes	5,252,224 10	5,269,481 86
Miscellaneous	903,726 51	1,313,979 13
* Dividends declared.....	13,791,601 67	14,617,334 99
Surplus	5,362,202 58	4,544,800 96
Stock and debt.....	1,272,718,923 52	1,275,883,953 58
Cost of road and equipment.....	1,208,848,443 05	1,214,631,088 93
Percentage of gross income to cost of road and equip- ment.....	04.65	04.67
Percentage of net income to capital stock	03.03	03.06
Percentage of dividends declared to capital stock	02.18	02.34
Miles of road built in New York State.....	7,423.84	↑ 7,466.59
Tons of freight carried one mile.....	12,781,459,729	12,888,675,746
Increase in 1889 of 01.24 per cent.		
Average freight earnings per ton per mile (cents)	0.797	0.782
Average freight expenses per ton per mile	0.527	0.524
Average freight profit per ton per mile	0.270	0.259
Passengers carried one mile (exclusive of elevated roads)	2,199,061,958	2,301,916,204
Increase in 1889 of 04.7 per cent.		
Average earnings per passenger per mile (cents).....	2.30	2.39
Average expenses per passenger per mile.....	1.57	1.49
Average profit per passenger per mile	0.73	0.80

* Includes respectively interest and dividends paid by lessors from rentals received from lessees as follows:

	1888.	1889.
Interest.....	\$7,539,059 51	\$7,417,298 15
Dividends	3,621,721 42	3,557,545 00

† Figures for 1889 would show more increase but for fact that 69.85 miles of Lack. and Pittsburg not operated during year, and 19.40 of Brad., Eld. and Cuba taken up, are not included in total for 1889.

REFERENCES AND COMPLAINTS.

During the past fiscal year the Board has considered and disposed of 24 references by the Governor, the Legislature and committees thereof, and numerous complaints preferred by cities, towns, associations and individuals, the volume of business having been greater than during any year since the creation of the Board.

The determinations in these matters are to be found in the Appendix pp. 3 to 180, to which reference is made for a full exposition thereof. Many of them are of much importance and involve questions of vital interest to the State.

Your attention is particularly directed to the complaint of the Buffalo Merchants' Exchange against the railroads centering in Buffalo, relative to freight discriminations, to be found on page 72. The *gravamen* of this complaint was, that the sum of the locals between western points and Buffalo, and Buffalo and eastern points, was greater than the through rates from such western points to such eastern points, thereby cutting Buffalo out from being a distributing center. Great interest was taken in the matter by the leading merchants and shippers of Buffalo.

The Board in its decision recognizes the fact that in many cases the sum of the locals must necessarily be more than the through rates; but in the case of Buffalo, situated as it is at the foot of Lake Erie, at the beginning of the Erie canal, at a point where the service rendered, whether the shipment be through or arrested at Buffalo and sent forward on a new bill of lading, is the same if such shipments are by lake to Buffalo and rail to eastern points, the Board deemed that the ordinary rule should be modified. A similar state of facts with regard to other cities exists, and unless the policy of the railroads be modified as suggested by the Board, the result will be that the centers of business and distribution will be pushed further and further west to the detriment and eventual paralysis of eastern cities — a result that certainly will not be calmly tolerated.

It is proper to add that the complaint was almost exclusively with regard to articles of interstate commerce, and was, therefore, not within the power of this Board to redress. Inasmuch, how-

ever, as the subject was one of vital interest to the State, the Board deemed that it could with propriety express an opinion thereon.

ACCIDENTS.

The record of accidents for the year ending September 30th, 1889, shows an increase of 36 killed, and a decrease of 267 injured as compared with the previous year.

The following table gives a record of the accidents classified, first, as to their causes, and second, as to whether beyond the control of the killed or injured, or in consequence of their own misconduct or want of caution, for the years ending September 30th, 1888 and 1889 :

TABLE OF ACCIDENTS reported to the Board of Railroad Commissioners classified as to cause, for years ending September 30, 1889 and 1888.

CAUSE OF ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.				TOTAL.	
	1889.		1888.		1889.		1888.		1889.		1888.		1889.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Fell from train, engine or cars.....	4	5	2	10	41	64	27	80	13	13	58	82	45	117
Getting on or off trains in motion.....	7	39	6	24	2	28	8	54	17	73	48	131	151	151
Striking low bridges, switches, tunnels, etc.					2	12	6	12	1	1	4	13	7	13
Passengers putting heads or arms out of windows, or missiles thrown in windows.....		1		1										
Walking or uncoupling cars.....	2	4	2		27	364	26	480	2	2	27	398	26	482
Wrecking or derailing cars.....					66	64	50	54	284	113	365	357	357	252
Crossing track at highways.....							1							
Protected with gates or flagmen.....														
Not protected with gates or flagmen.....														
Catching foot in frog or between rails.....					13	9	6	1	16	16	16	16	13	10
Derailment by misplaced switch.....						1			12	10	10	16	13	10
Derailment by broken rail.....		1		7		1	4	11	29	30	24	30	9	6
Derailment by broken axle or switch.....														
Derailment by broken axle.....														
Derailment by broken wheel.....														
Derailment by defective track.....					8	1								
Derailment by obstruction on track.....					20	1	1	3			1		3	9
Derailment by obstruction on track.....														
Derailment from unknown cause.....														
Collisions, hitting by misplaced switch.....		26	2	48	1	9	2	18	1	1	1	45	4	66
Collisions, hitting by defective signals.....														
Collisions, hitting with a hand car.....														
Collisions, hitting by parting of trains.....														
Collisions, hitting by malicious obstruction.....														
Collisions, hitting by malicious interference.....														
Collisions, hitting by causes unexplained.....														
Collisions, rear, by misplaced switch.....	7	28	1	2	13	39	4	21	1	1	20	49	6	58
Collisions, rear, by parting of trains.....														
Collisions at grade crossings of railroads.....	1	2		3	1						2		2	3
Collisions at grade crossings of railroads.....														
Failure of bridge, cattle-guard or trestle.....														
Locomotive explosions.....		11	1	3	10	48	4	56	2	9	6	12	4	2
Other train accidents.....	3	3	1	1	2	41	7	61	1	9	7	23	15	64
Other causes.....	6	6			2	10	2	17	3	3	2	83	8	69
Casualties not caused by trains, engines or cars.....	22	135	17	161	191	712	210	984	376	268	326	277	589	1,372
From causes beyond their own control.....	7	76	4	124	16	77	30	110			2	6	23	240
By their own misconduct or inattention.....	13	47	11	32	64	500	600	1,100	339	226	234	446	773	437
Reported as caused by intoxication.....	1	1	8	4	1	1	1	3	33	16	24	25	35	32
Indeterminable as to want of caution or otherwise.....	1	4	2	1	80	135	49	164	4	12	4	12	86	167
Indeterminable as to want of caution or otherwise.....	22	135	17	161	191	712	210	984	376	268	326	277	589	1,372

coupler. Much confusion has resulted from different roads adopting different devices. A year ago it was hoped that a solution of this question was in sight in consequence of the Master Car Builders' Association having recommended for adoption what is known as the 'Janney Type,' i. e., a 'vertical plane coupler.' Connection is made by a movable knuckle fitting into and behind a corresponding knuckle in the opposite coupler. The Master Car Builders' Association has further recommended certain lines and dimensions to be adopted, so that different patents may couple automatically with each other. Some progress has been made, but not as rapid as it would appear desirable. Certainly the record of accidents from this cause as yet shows no diminution. The law is clear and positive upon the subject, and the Board is not aware of there being any violation of it. It is to be hoped that within a short time a diminution in these accidents can be reported."

The hope expressed by the Board last year has not been realized so far as deaths from this cause are concerned, but there is a material decrease in the number of injuries, i. e., 116.

In order to determine how far the law has been effective in securing the equipment of freight cars with automatic couplers, the Board has issued a circular calling upon the railroads of the State to report, first, the number of cars; second, the number equipped with automatic couplers and the pattern thereof. Answers have not been received at the time of this writing to enable the Board to report to the Legislature the results of its inquiries.

The great difficulty in the matter is that of the total number of cars operated at any one time within the State, a large proportion is the property of corporations without the State, and not, therefore, within the provisions of the law.

An act was passed last winter, being chapter 524 of the Laws of 1889, requiring that "all persons and corporations operating any line or lines of railway by steam power in this State shall, after the 1st day of November, 1892, equip all of their own engines and freight cars run and used in freight trains or other trains in this State with such automatic self-couplers."

The act does not prohibit, however, freight cars belonging to foreign corporations being run within the State, and consequently will not entirely remedy the evil.

The Board repeats here its response to an inquiry from the Interstate Commerce Commission upon this subject, in the language used in a report upon tests of automatic couplers, made

July the 1st, 1886, to be found on page 177 of the first volume of the report of the Board for 1886 :

"To attain the main object of an automatic coupler, *i. e.*, to save the lives and limbs of trainmen, it is most desirable that but one device should be in universal use. If there is diversity it will increase rather than diminish the present dangers.

"There appear to be but two ways for this to be brought about, one by the operation of the law of the 'survival of the fittest,' the other by the creation by Congress of a commission to determine upon one coupler and compel its adoption by all companies engaged in interstate commerce.

"The first method, it would seem, will be slow beyond all computation from present indications. There appears to be no good reason, however, why the second could not be done.

"Under its powers to 'regulate commerce among the several States,' Congress has already prescribed rules for the inspection of hulls and boilers of steamships, for the examination of engineers as to their competency, for vessels being provided with boats, life-preservers, and for many similar things to insure the safety of travel by water.

"It would seem that the same power could and should be exercised to insure safety in the operation of railroads.

"From the diversity of the recommendations made by the States which have already acted on the coupler question, it seems to be hopeless to secure unanimity from them acting separately."

A large increase in the number of deaths to employees from catching foot in frog or between rails occurred, *viz.* : Twelve killed and 9 injured, as compared with 5 killed and 1 injured in 1888.

The Board has from time to time recommended to different railroads the insertion of blocks in frogs and between rails to prevent this horrible form of accident. It is reported, however, by many of the railroad companies that this blocking rather promotes than prevents the accidents, for the reason that without the blocking a man can get his foot between the webs of the rails where the space is wider and thus extricate it, whereas, if the blocking prevents his getting his foot down to the wider space, it becomes wedged between the heads of the rails and there remains. It would be a most desirable thing if an effective device could be secured to prevent these accidents.

The most serious cause of deaths to "others," not employees or passengers, was as heretofore, walking or being on the track. This resulted in 284 deaths and 118 injuries, as against 245 deaths and 138 injuries in 1888.

The Board repeats its language in previous reports upon this subject :

"The sufferers generally, almost invariably, were trespassers, frequently suicides. The law forbids walking or being on the tracks of railroads and makes it a misdemeanor punishable with fine, but it seems practically impossible to enforce it in this country, particularly away from the cities. In the yards and depot grounds railroads make an effort to expel trespassers, but they meet with little encouragement from the civil authorities; this is particularly true with regard to children and beggars picking up coal and cinders. In view of the terrible loss of life incident to its violation the law should certainly be enforced with more vigor."

The next cause of death to "others," was being run over at highway crossings, resulting in 45 deaths and 46 injuries, as compared with 27 deaths and 34 injuries in 1888.

Of the killed and injured in 1889, 16 were killed and 16 injured at crossings protected by gates or flagmen, and 29 killed and 30 injured at crossings not so protected.

Were it the law that as a rule railroads should pass over or under highways, and should only be permitted to cross at grade by a special order of court, these constantly recurring casualties would be greatly reduced, if not entirely done away with. The Board has recommended to five successive Legislatures an amendment to the present law requiring newly constructed railroads to observe such a rule, and also providing for the separation of existing grades. The bill has failed in every case.

Another embarrassment results from the fact that highway commissioners are constantly opening new highways across railroads at grade. This they do under the present law. The Board is of the opinion that this law should be amended by inserting a provision that no new highway should be opened at grade across a railroad track except by order of court.

This subject is further discussed hereinafter, under the head of "Legislation," to which your attention is directed.

CHANGE OF MOTIVE POWER FOR STREET RAILROADS.

A statute was passed last winter, being chapter 531 of the Laws of 1889, amending section 12 of the General Street Railroad Act, substituting the Board of Railroad Commissioners for the local authorities of cities or villages, as the public authority to give consent for change of motive power by street railroads.

Numerous applications have been made to the Board and much time and attention has been devoted to the investigation of the merits of the change in each particular case.

Your attention is drawn to the decisions of the Board in the application of the Third Avenue railroad of the city of New York, for the approval of a change of motive power from horses to cable, and those of the Utica Belt Line, and the Troy and Lansingburgh railroad companies for the change from horses to electricity.

The application of electricity, either by storage batteries or by transmission by overhead wires, has been greatly perfected within the last year.

The method by storage batteries within the cars has many obvious advantages. Each car is independent and under the complete control of the brakeman. It appears to be somewhat expensive, however, and not well adapted to roads with continuous steep grades.

The overhead trolley system has been put in operation in a number of the cities of the State. It appears to be working satisfactorily. There are certain dangers and objections to it, however, which should be carefully considered before it is adopted. The Board repeats its language used in the case of the application of the Utica Belt Line Railroad Company: "A tremendous energy is invoked; the cars are enabled to run at a very high rate of speed, and certain dangers undoubtedly occur that should be carefully guarded against, and city authorities should see to it that a higher rate of speed than that consistent with safety to the street traveler should not under any circumstances be permitted; that at least two men should be put on every car, viz.: A brakeman or driver, and a conductor. No car propelled by electricity should be permitted to run with less.

"The erection of poles, too, with the transverse wires to a greater or less extent impairs the use and appearance of the streets, and the railroad company should be required to erect sightly poles, and high enough to permit all vehicles to pass with their loads under the wires stretched across the street."

In the application of the Troy and Lansingburgh railroad it was developed that the high tension currents of the railroad company seriously interfere with the delicate currents on the wires of the

telephone companies, either by leakage, i. e., conduction, or by induction in consequence of the proximity of the wires of the railroad company to those of the telephone company.

The decisions of the Board in these cases are printed in full on pp. 107 to 126 of the Appendix, to which your attention is called.

The statute provides that in addition to the approval of the Board of Railroad Commissioners to change of motive power, the consents by the owners of one-half in value of the property bounded on that portion of a railroad as to which a change of motive power is proposed shall be obtained, or, in case the consent of the property owners cannot be obtained, then the determination of three disinterested commissioners appointed by the General Term of the Supreme Court, confirmed by said court, shall be taken in lieu of the consent of said property owners.

The Board has made it a condition precedent to its approval, that the consents of the abutting property holders should first be obtained. A case of appeal to commissioners appointed by the court has not as yet come before the Board.

COMPLETION OF ROADS BY REORGANIZED COMPANIES.

A statute was passed last year, being chapter 236 of the Laws of 1889, amending chapter 430 of the Laws of 1874, known as the reorganization act, by adding the following section:

"Nothing herein contained shall be construed to compel a corporation organized under this act to extend its road beyond the portion thereof constructed at the time said corporation acquired the title to such railroad property and franchise, provided the Board of Railroad Commissioners of the State shall certify that in their opinion the public interests under all the circumstances do not require such extension."

This statute was passed in consequence of a doubt existing as to whether the obligation resting upon a railroad corporation to complete its road as laid out in the original articles of association passed through foreclosure proceedings to the individual or corporation purchasing the property and franchise of the bankrupt corporation.

The statute was a very necessary one to relieve many of the corporations of the State from obligations which would be in many cases intolerable. There are many instances where part of a railroad has been built, the corporation has failed and another

corporation has bought a portion of the constructed line as a link in its own chain. For instance, at the time the West Shore railroad was built, it found pieces of defunct road in various parts of the State which it could apply to complete its own line. If it had been required, however, to complete the entire road of each one of these pieces as laid out in the original articles of association, it would not have dared to have purchased them. So it is with many other railroads. It is doubtless the fact to day, that if the obligation should rest upon all railroad corporations to finish entirely the roads of defunct corporations, part of which they may have bought in at the time of building their roads, there would not be a charter in the State but what would be liable to suit for forfeiture.

The only application thus far made to the Board, however, under this act, is that of the Ulster and Delaware Railroad Company, to which your attention is directed on p. 82 of the Appendix.

Numerous applications have been made to the Board for approval of increase of capital stock, and for permission to cease operations during the winter months, under the provisions of the respective statutes in regard thereto. The determinations are set forth in full in the Appendix at pp. 98 to 106.

PHYSICAL CONDITION OF RAILROADS.

The reports of the inspector, to which your attention is directed on pp. 185 to 225 of the Appendix, show that the physical condition of the railroads of the State is improving each year. There is still room for improvement upon many of them, but the marked nature of that which has already taken place since the creation of the Board is a subject of gratifying comment.

HEATING CARS.

Heating cars by steam from the locomotive is now an accomplished fact in the State of New York.

The time within which this Board, for reasons shown, could extend the date for heating other than by stove or furnace, expired upon the first of November, 1889.

The system works fairly well only.

The temperature of the steam is so high and the pipes get hot so quickly if the valves are much opened, that the utmost care is necessary upon the part of the trainmen to keep an even or a comfortable temperature.

The language of last year's Report on this subject is again repeated :

"The Board can not dismiss this subject without expressing regret that in the adoption of a steam-heating method, so little attention has been paid to ventilation. It is a common, nay, almost universal, complaint of those who travel, that the temperature of the cars is either kept so high as to be intolerably oppressive or allowed to fall so low as to be uncomfortably cold.

"Had the suggestion of the Board been adopted, so often and urgently made, viz. : To introduce fresh cold air from the outside, pass it over coils of pipe in the ends of the car, thence into the car through flues in the angle between the floor and sides, such air being kept warm during its passage by the pipes already there, the serious discomfort and detriment to health, incident to bad air and alternations of extreme heat and cold, would have been avoided.

"As it is, however, no provision has been made for ventilation except by opening a window. This induces a draft upon those in the immediate vicinity, resulting in complaints to the trainmen and conductor, and finally in the sealing up of the car with little or no ventilation whatever.

"The Board deems, in view of the great discomfort and injury to health incident to the extreme alternations of temperature, that a thermometer should be placed in each car and instructions be given to the trainmen, and those charged with maintaining the temperature, to keep it as nearly as possible at the point of seventy degrees, and that such thermometer be compared from time to time with a standard, in order to insure its correct register."

LEGISLATION.

The act creating the Commission makes it its specific duty to recommend to the Legislature such laws or amendments to the present laws as the experience of the Commission may show to be necessary or expedient for the benefit of the public.

This duty the Commission has conscientiously performed, with most discouraging results.

During the seven years of its existence it has repeatedly called the attention of the Legislature to the defects in the law out of which grievances and even scandals have grown and continue to exist. It has carefully drafted bills which have been introduced by the chairmen of the respective railroad committees of the

House and Senate. These measures have been advocated by the Commission before the respective committees. They have received the approval of the press, commercial bodies and numerous individual citizens, but not that of the Legislature.

Under these circumstances the Board deems that to again introduce them without the request either of the committees themselves or of some individual member of the Legislature who would advocate them upon the floor, would be useless and futile.

The Board, however, again earnestly *recommends* the measures to the attention of the Legislature. A full exposition thereof is given on pages xxi to xxxii of the last Annual Report of the Board.

The measures are, in brief, as follows :

First. An amendment to the act creating the Board of Railroad Commissioners, providing that the recommendations thereof may be reviewed by the courts, and when found just and reasonable enforced by mandamus or other appropriate action, subject to appeal in the usual way.

This measure has been recommended by numerous individuals, organized commercial bodies, the press, the Chamber of Commerce of the State of New York, two Attorney-Generals, and the Court of Appeals. It is absolutely necessary to enable the Board to redress many of the grievances which come before it, for which there is no other redress and in the nature of things cannot be.

Second. An act to amend section 24 of the General Railroad Act with regard to grade crossings. It has three objects in view :

1. To prevent railroads hereafter constructed from crossing highways at grade.

2. To prevent new highways being opened over railroads at grade.

3. To provide for the separation of grades between railroads and highways at present grade crossings.

These provisions are so desirable that it would seem to be unnecessary to enter into a discussion of their merits.

The bill is carefully prepared, so that action may be begun by aggrieved parties. Provision is made for the interests of abutting property holders.

This measure, or some kindred one, is absolutely necessary to do away with the constant dangers and intolerable inconveniences

at many grade crossings of the State. There is no law at present under which any satisfactory redress can be obtained.

Third. An act to prohibit street railroads hereafter laying center-bearing rails, and to compel such companies to replace the center-bearing rail now laid with a rail of better construction at the rate of twenty per centum per annum, when so required to do by the local authorities of any city or village of the State.

This measure is particularly advocated by the city authorities and citizens of New York.

Fourth. An act to amend chapter 218 of the Laws of 1839, known as the "Leasing Act," the amendment having for its object to require the approval of the stockholders of both the lessor and lessee roads before the lease shall become valid.

The Board deems that this measure is most desirable, both in the interests of stockholders and of the public, particularly in view of the tendency toward consolidation of railroads now so prevalent throughout the country.

Fifth. An act to prevent the unnecessary duplication of railroads.

It provides that a corporation to build a railroad cannot come into existence until a hearing shall have been had before the Board of Railroad Commissioners and that body shall have decided that public convenience and necessity require the construction of such road.

An appeal from the decision of the Board to the Supreme Court is provided for, which latter body is vested with power under the law to reverse the decision of the Board should it be against permission to build.

The theory of this act is explained briefly in previous reports of the Board, as follows:

"A railroad cannot be built without the State delegating to its promoters the highest power it possesses over property, the right of eminent domain — the right to take private property for public uses. The State itself never exercises this sovereign power except in cases of public necessity. Why should it thus delegate it to any thirteen men, to be exercised for mere private gain, frequently at the expense of vested rights and grave public interests."

Sixth. An act for the prevention of discrimination by railroads against shippers by canal.

A statement of the reasons of the Board for favoring this act will be found in the Second Annual Report, that for 1884, at pages 85, 107, 120, etc.

Seventh. An act to provide a penalty for a railroad's failure to file its quarterly reports.

These reports, now so much relied upon, are frequently much behind time and sometimes withheld for stock-jobbing purposes to the detriment of innocent stockholders and in the interest of unscrupulous persons.

Eighth. An act to establish the responsibility of railroad corporations for damages by fire communicated from their locomotive engines.

This act is a most desirable one in the interests of the public at large, and is particularly necessary for the preservation of the forests of the State in the Adirondack regions and in the more thinly populated districts of Long Island.

Ninth. An act providing that railroads shall construct a low railing around the roofs of their freight cars to prevent the brakemen falling off, particularly in slippery and stormy weather.

Tenth. An act to require railroad corporations to place a Fahrenheit thermometer in all passenger cars, and to instruct those charged with maintaining the temperature to keep it as nearly as possible at the point of seventy degrees during that period of the year when the cars are heated artificially.

The object of this bill has been explained heretofore and the Board deems that its passage is exceedingly desirable if not absolutely essential to promote the comfort and health of the traveling community, particularly since the introduction of steam heat from the locomotive.

As hereinbefore stated, bills to carry out the above recommendations have been carefully drawn and printed by this Board, copies of which can be obtained by any member of the Legislature desiring to introduce either one or all.

All of which is respectfully submitted.

WM. E. ROGERS,
ISAAC V. BAKER, JR.,
MICHAEL RICKARD,

Commissioners.

APPENDIX.

Decisions and recommendations :

Executive and legislative references.

Complaints of cities, towns, etc.

Applications for change of motive power.

Applications for increase of capital stock.

Applications for issue of bonds.

Applications to suspend operations of road.

Accidents.

Accident inquiries.

Applications for extension of time for heating passenger cars.

Length of railroads.

Inspections.

Minutes of Board.

Companies formed during 1889.

Companies reorganized during 1889.

Companies consolidated during 1889.

Extension of routes during 1889.

Change of name.

Surrender of capital stock.

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Enactments of year 1889.

Alphabetical list of all companies formed under laws of this State.

General Railroad Act, and all acts (classified) relating to the railroads of this State.

Interstate Commerce Act.

DECISIONS AND RECOMMENDATIONS.

EXECUTIVE AND LEGISLATIVE REFERENCES.

I.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO REGULATE THE PAYMENT OF FARES UPON RAILROADS," REFERRED TO IT BY THE GOVERNOR.

ALBANY, February 20, 1889.

To the Governor of the State of New York :

The Board of Railroad Commissioners respectfully returns Senate bill (printed No. 158) entitled "An Act to regulate the payment of fares upon railroads."

The bill provides that it shall be lawful for any company owning or operating a steam railroad in this State to collect an excess charge of ten cents over the regular established rate of fare from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this State; provided, however, that it shall be the duty of such company to give to any passenger paying such excess a receipt or other evidence of such payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded upon the delivery of the same at any ticket office of such company upon the line of their railroad, and such company shall refund the same upon demand, and, provided further, that this act shall not apply to any passenger taking passage from a station or stopping-place where tickets can not be purchased during half an hour previous to the schedule time for the departure of the train on which such passenger takes passage.

The passage of this act is urged by the railroad corporations. It is claimed that in the absence of some receipt of value being given to a passenger for the payment of the fare, that many fares paid fail to reach the treasury of the company. Railroad corporations generally require that a conductor shall record on a book which he carries in his pocket, the amount of fare received from the passenger, and shall give the passenger himself a receipt for the payment of such fare. Inasmuch, however, as the receipt for such fare has no value, a passenger is not likely to demand it; consequently a conductor who is disposed to be dishonest may fail to deliver to such passenger a receipt or mark the receipt of such cash upon his book, and no record,

therefore, would exist of its ever having been paid. It is claimed very considerable revenues of the companies of the State are thus misdirected.

In case this bill becomes a law, however, the exaction of ten cents additional fare would compel the entry by the conductor in his book of the receipt of such fare, and a much more trustworthy check would, therefore, be imposed upon conductors to return the full amount of cash fares collected to the company. No serious inconvenience would be imposed upon the passenger, as the receipt for the ten cents is redeemable at any time, there being no limitation imposed by the bill.

It is claimed that some inconvenience might arise to passengers who arrive at a station just in time to take the train and not in time, perhaps, to purchase a ticket. The answer to this appears to be that it is the duty of the passenger to arrive within sufficient time to conform to the reasonable rules of the company, and that if he is thus almost late, it is not a serious hardship that he should be subjected to the slight inconvenience of redeeming a receipt for the extra ten cents fare which he would thus be obliged to procure.

A custom has been in vogue upon several railroads of the State for some time, requiring passengers to thus pay an extra fare, although there is no authority in law for the same, except that it might be implied from the authority to impose proper and reasonable regulations. In the case of the New York Central railroad, special authority to exact five cents extra fare is granted by chapter 228 of the Laws of 1857. This extra sum, however, is not recoverable by the passenger.

It may be proper to say that this bill has been opposed before the Board by the representative of the Order of Railway Conductors. The grounds for opposition were partially on a misapprehension of the scope of the bill and need not, therefore, be noted here. The principal ground of the opposition appears to be a belief upon the part of the representative of this organization that the passage of the bill would have a tendency to lead the public to believe that railway conductors were dishonest and not to be trusted financially.

The Board does not deem that the order of Railway Conductors should object to a check thus being thrown about their cash receipts any more than that any other men, ticket agents, treasurers and financial officers should be obliged to give vouchers for receipts of money. It is universally the case that such vouchers should be given.

The Board deems, therefore, that the measure might properly receive Executive approval, but it ventures to call attention to the fact that bills granting increased privileges to railroad corporations seems to pass without difficulty, whereas any restrictive or remedial measure, however necessary or expedient in the interests of the public, rarely reaches the Executive.

By the Board.

WILLIAM C. HUDSON,
Secretary.

II.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND SECTION 14, CHAPTER 140, LAWS OF 1850, ENTITLED 'AN ACT TO AUTHORIZE THE FORMATION OF RAILROAD COMPANIES AND TO REGULATE THE SAME,' AND TO REPEAL CHAPTER 515, LAWS OF 1867, ENTITLED 'AN ACT IN RELATION TO RAILROAD CORPORATIONS,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, *March 12, 1889.*

To the Governor of the State of New York:

The Board of Railroad Commissioners respectfully returns Assembly bill (printed No. 120) entitled "An act to amend section 14 of chapter 140 of the Laws of 1850, entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' and to repeal chapter 515 of the Laws of 1867, entitled 'An act in relation to railroad corporations.'"

This act amends section fourteen of the General Act in two substantial respects.

First. Section fourteen of the General Act now provides that for the purpose of acquiring title to real estate the company may present a petition to the Supreme Court praying for the appointment of commissioners, which petition, among other things, must state "that the whole capital stock of the company has been in good faith subscribed as required by this act." Chapter 515 of the Laws of 1867 modifies this requirement to the extent that any railroad company which has been or may hereafter be duly formed under the General Act, and which is duly continued in existence, may apply to the court for the appointment of commissioners to condemn land when at least \$10,000 for every mile of its railroad proposed to be constructed in this State shall be in good faith subscribed to its capital stock, and ten per cent thereof paid in.

This bill in line thirteen, page two of the printed bill, incorporates the law of 1867 into section fourteen of the General Act. The words ought to be in italics, but through some oversight they are not.

The incorporation of the law of 1867 into section fourteen of the General Act is in the line of good legislation, as it simplifies the law. It furthermore does away with the objection which the Board raised to a similar bill which passed the Legislature last year and was referred to this Board by yourself, a report of which will be found on page 87 of volume one of the last report of this Board, viz., that for 1888, and to which your attention is respectfully drawn. The objection, in brief, was that the reenactment of section fourteen of the General Act might repeal this very law of 1867. Its incorporation, however, into the act obviates that objection.

Second. The second amendment is to the effect that whereas a railroad of a greater length than one hundred miles, or one having two tracks, shall be obliged to have ten thousand dollars a mile subscribed and ten per cent thereof paid in before taking proceedings to condemn real estate, a railroad company "which has been or which may hereafter be duly organized under this act, and which is duly continued in existence for the purpose of constructing, maintaining and operating a railroad with a single track not exceeding one hundred

miles in length, the petition must state that at least five thousand dollars for every mile of its railroad proposed to be constructed in this State have been in good faith subscribed to its capital stock and twenty per cent thereof paid in. It will thus be seen that the amount necessary to be paid in before proceedings can be taken to condemn real estate is the same in both cases, the only difference being that in one case ten thousand dollars must be subscribed and ten per cent paid in, while in the other five thousand dollars must be subscribed and twenty per cent paid in.

Last year, in the report hereinbefore alluded to, the Board states "that it is of the opinion that the proposed amendment, so far as it applies to single track railroads of fifty miles in length, would be a desirable amendment to the law, as there is no reason why, if these roads can be built for five thousand dollars a mile, that the incorporators of the company should be required to subscribe ten thousand dollars." The Board observes that this year the length of the excepted roads has just been doubled, and the provisions instead of applying to roads of fifty miles in length, as in the bill of last year, apply to roads of one hundred miles. The Board is not aware of any reason why the provisions of the act might not as well apply to roads of one hundred miles in length as those fifty miles in length. The application would probably be limited to but few roads under any circumstances.

In addition to the substantial amendments above noted there are two further amendments to the law as follows:

In subdivision two, line 57, page three of the printed bill the words "in the State paper" are stricken out and the words "as required by law" substituted. The same amendment is made in subdivision five on line 82 of page four of the printed bill.

This amendment is made in those provisions of the law with regard to serving notices upon non-residents. Inasmuch as the State paper was abolished by chapter 133 of the Laws of 1884, the provision that the notice should be put in the State paper was inoperative. The substitution of the words "as required by law" might raise some question as to where the notice should be printed in addition to a paper printed in the county in which the land is situated. It is not likely that this would cause any serious embarrassment, but it probably would have been better if the words "in the State paper" had simply been stricken out.

Section two of the bill repeals chapter 515 of the Laws of 1867. Inasmuch, however, as the provisions of that statute are incorporated into section one of the bill, as hereinbefore stated, the repealing clause is proper.

On the whole, the Board deems that the bill can receive Executive approval without detriment to public interests.

By the Board.

WILLIAM C. HUDSON,
Secretary.

III.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 616, LAWS OF 1887, ENTITLED 'AN ACT TO REGULATE THE HEATING OF STEAM PASSENGER CARS,'" REFERRED TO THE BOARD BY THE GOVERNOR.

ALBANY, March 20, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 191) entitled "An act to amend chapter 616 of the Laws of 1887, entitled 'An act to regulate the heating of steam passenger cars,'" etc., sent to the Board under a re-reference.

It appears that it has been proposed to insert the following amendment: "Except that where such foreign railroad connects with a railroad operated in this State and the cars of the latter railroad are equipped with apparatus for the use of steam from the locomotive for heating purposes such foreign railroad shall apply steam for said purposes to such cars so equipped."

The object of this proposed amendment is to require the Grand Trunk Railroad of Canada to equip its locomotives with steam connections for passenger cars so that it shall enable the cars of the Delaware and Hudson Canal Company to be heated by steam from the locomotive when exchanged with the Grand Trunk Railroad at Rouse's Point.

Rouse's Point is but a mile from the boundary line between Canada and New York State. The only jurisdiction that the State could have over the Grand Trunk road would be upon this mile of line. It is quite possible that if the State should insist that the Grand Trunk road should equip its locomotives with steam apparatus it might decline to enter the State and make its connections, if it made them at all, with the Delaware and Hudson Canal Company beyond the State boundary line which would subject the traveling public to very great inconvenience. It is probable, however, that the Grand Trunk road, if requested by the Delaware and Hudson Canal Company, would be willing to equip its locomotives hauling the trains of the Delaware and Hudson Canal Company with the steam apparatus. It would be a very trifling expense.

The Board deems, therefore, that it would be more expedient at present not to pass legislation on the subject.

The counsel of the Delaware and Hudson Canal Company, Mr. Edwin Young, has sent a communication to the Board, the latter part of which is as follows: "We will withdraw our opposition for the present with the understanding that if it turns out that the bill works a hardship on this company by reason of the refusal of the Grand Trunk road to furnish steam or otherwise, the Board will assist us in securing relief by application to the Grand Trunk road-or by recommending, if necessary, the amendment or modification of the bill by another Legislature."

This the Board is quite willing to promise.

For the above recited reasons the Board deems that the bill in its present shape, without amendment, can with propriety and without detriment to public interests, receive Executive approval.

By the Board.

WILLIAM C. HUDSON,
Secretary.

IV.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO EXTEND THE EXISTENCE OF STREET SURFACE RAILROADS OWNING LEASED OR CONNECTING RAILROADS," REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 9, 1889.

To the Governor of the State of New York :

The Board herewith respectfully returns a letter from Mr. David C. Robinson, accompanying a bill entitled "An act to extend the existence of street surface railroads owning leased or connecting railroads."

Section one of the bill provides : "Whenever any street surface railroad company, organized by special legislative act prior to the first day of January, 1884, shall have leased another street surface railroad heretofore organized for the term of the corporate existence of such leased railroad and shall have connected its tracks with those of such leased railroad and the charter of such leased railroad shall be of longer duration than that of the railroad corporation holding such lease, it shall be lawful for the directors of such leasing company, or a majority of them, to file in the office of the Secretary of State a declaration of the desire and intention of such railroad corporation to extend its charter to conform in duration to that of such leased railroad corporation."

Section five of chapter 697, Laws of 1886, already provides a method for the extension of corporate existence in all cases. The section reads as follows :

"The continuance of any railroad corporation now existing or hereafter to be formed under the laws of this State may be extended beyond the time named for that purpose in its act or acts of incorporation, or in the articles of association of such corporation, by the filing in the office of the Secretary of State a certificate of consent to such extension, signed by the holders of two-thirds in amount of the stock held by the stockholders of such corporation ; and in every case where such consent has been or shall be so filed, the term of existence of such corporation is hereby extended and declared to be extended for the period designated in such certificate, and each such corporation shall, from the period named in such certificate, possess and enjoy all the rights, privileges and franchises enjoyed or exercised by such corporation at the time such certificate was or shall be so filed."

Inasmuch as the above law provides for the extension of corporate existence, the Board sees no reason why a special act should be passed applicable only to certain favored railroads. The fact that one of the railroads contemplated in the proposed act is the lessor or lessee of another company, and that the charter of one expires before that of the other would have no effect upon its exercising the privileges conferred by the act hereinbefore quoted.

The Board deems that the act is applicable to street railway corporations for the following reasons:

First. Section five of chapter 697 of the Laws of 1886, before it was amended by chapter 240 of the Laws of 1874, read, "Any company heretofore formed or hereafter to be formed under the provisions of an act entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' passed April the second, 1850, or the acts amendatory thereof," etc.

Chapter 240 of the Laws of 1874, amended the section so as to read as follows: "*The continuance of any railroad corporation now existing or hereafter to be formed under the laws of this State may be extended,*" etc. It was evidently, therefore, the intention of the Legislature to bring all railroad corporations under the operation of this act.

Second. Section one of the General Street Railroad Act, viz., chapter 252 of the Laws of 1884, specifically recognizes the applicability of the General Railroad Act to street railroads, except where such applicability is modified by the street railroad act. Inasmuch as there is no provision made in the General Street Railroad Act for the extension of the corporate existence of street railroads it is evident that it was the intention of its framers and of the Legislature to have the provisions of the General Act with regard to extension apply to street railroads.

For the above reasons the Board sees no necessity for the proposed bill becoming a law.

By the Board.

WILLIAM C. HUDSON,

Secretary.

V.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO LEGALIZE AND CONFIRM THE MERGER AND CONSOLIDATION OF THE WASHINGTON STREET AND STATE ASYLUM RAILROAD COMPANY AND THE PARK AVENUE RAILROAD COMPANY INTO THE WASHINGTON STREET, ASYLUM AND PARK AVENUE RAILROAD COMPANY, IN THE CITY OF BINGHAMTON," REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 10, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns "An act to legalize and confirm the merger and consolidation of the Washington Street and State Asylum Railroad Company and the Park Avenue Railroad Company into the Washington Street, Asylum and Park Railroad Company, in the city of Binghamton," referred to this Board for a report.

It appears that these two companies were merged and consolidated in accordance with an agreement and certificate filed in the office of the Secretary of State October the 4th, 1887. The merger and consolidation was attempted to be effected under the provisions of chapter 108 of the Laws of 1875, as amended by chapter 387 of the Laws of 1883. Section one of that act provides, "In any case where two or more railroad companies shall have been or shall hereafter be organized under the laws of this State * * * the said companies may consolidate their lines of roads * * * according to the existing laws of this State relating to the consolidation of railroad companies."

The Board is informed by O. W. Chapman, Esq., counsel to the corporation, that Judge Charles E. Baker has recently decided, in a suit of the consolidated company against the Syracuse and Binghamton railroad, that the original companies had no authority to merge or consolidate under said chapter 108 of the Laws of 1875. The

Board has not seen the decision, but it presumes that it is based upon the fact that said law of 1875 provides that companies may consolidate "according to the existing laws of this State relating to the consolidation of railroad companies," and that chapter 917 of the Laws of 1869, which is the law with regard to consolidations, prohibits the application of the law to street railroads in section seven of that act.

Such being the case, there seems to be good reason why the consolidation of these companies, which doubtless was attempted in good faith and without detriment to public interests, should be permitted to stand, inasmuch as bonds have been issued and other action taken, based upon the legality of such consolidation.

In consequence of the decision above quoted, there appears to be no law authorizing the consolidation of street railroad companies.

The Board, however, deems that it is proper to call your attention to section 18 of article three of the Constitution of the State, which prohibits the Legislature passing any private or local bill "granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever." The question arises whether granting this privilege to these companies to consolidate is of such a nature as to contravene the above quoted prohibition of the Constitution; if not, the Board deems that the bill could receive Executive approval without detriment to public interests.

By the Board.

WILLIAM C. HUDSON,

Secretary.

VI.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 654, LAWS OF 1869, ENTITLED 'AN ACT AUTHORIZING THE CONSTRUCTION OF A RAILROAD THROUGH CERTAIN STREETS AND ROADS IN THE TOWN OF POUGHKEEPSIE, IN THE COUNTY OF DUTCHESS,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 10, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill entitled "An act to amend chapter 654 of the Laws of 1869, entitled 'An act authorizing the construction of a railroad through certain streets in the city of Poughkeepsie, and through certain streets and roads in the town of Poughkeepsie, in the county of Dutchess.'"

The original act which this bill amends authorized the construction of a street railroad in Poughkeepsie. Section six of the act provided: "the cars to be used on said railroad shall be drawn by animal power and shall be run as often as public interests may require." The bill under consideration amends said section six as follows: "The cars to be used on said road shall be drawn by animal power or propelled by such other power as the common council of said city and the highway commissioners of the town of Poughkeepsie shall approve, and shall be run as often as the public interests may require."

It will thus be seen that the proposed measure would enable this street railroad company to use locomotive power or any other motive

power it might desire with the consent of the common council and the highway commissioners of the town of Poughkeepsie.

The General Street Railroad Act, viz., chapter 252 of the Laws of 1884, in section 12, provides that "any street surface railway company may, in any case, operate any portion of its road by animal or horse power, or by any power other than locomotive steam power which may be consented to by the local authorities and by a majority of the property owners obtained in accordance with sections three and four of this act."

Chapter 432 of the Laws of 1873 provides: "The mayor and common council of any city and board of trustees of any village, and as to streets and roads outside of any such city or village, the board of supervisors of any county of this State are hereby authorized to permit the use of any improved motive power or motor for the traction or propelling of cars on any city or street railroad which is or may be constructed and operated by horse power within their respective jurisdiction; such permission to be subject to such restrictions, regulations and conditions as the said local authorities may impose and subject to revocation at any time by the authority granting the same by a two-thirds vote of its members."

In view of the existence of these two general laws the Board sees no necessity for the passage of this special act, even if it did not contravene section 18 of the Constitution of the State prohibiting the granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

By the Board.

WILLIAM C. HUDSON,
Secretary.

VII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND SECTION 422 OF CHAPTER 676, LAWS OF 1881, ENTITLED 'AN ACT TO ESTABLISH A PENAL CODE,' RELATING TO POSITION OF CARS IN PASSENGER TRAINS," REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 23, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 538) entitled "An act to amend section 422 of chapter 676 of the Laws of the 1881, entitled 'An act to establish a Penal Code,' relating to position of cars in passenger trains."

Section 422 of the Penal Code reads as follows:

"A person being an officer or employee of a railway company who knowingly places, directs or suffers a baggage, freight, lumber, oil or merchandise car to be placed in rear of a car used for the conveyance of passengers in a railway train is guilty of a misdemeanor."

The bill under consideration leaves out the words "baggage" and "merchandise" car. Should it become a law, the bill would, therefore, authorize a railroad in making up its trains to place a baggage

car in the rear of passenger cars. Inasmuch as the words "merchandise car" are stricken out, the inference would be that merchandise cars could also be placed in rear of passenger cars.

What the distinction is between a freight car which is prohibited from being so placed and a merchandise car which would thus be authorized to be so placed, the Board does not know, unless in the Penal Code the words "merchandise car" were used to include all classes of cars carrying merchandise as, for instance, coal cars, refrigerator cars, stock cars, etc.

Inasmuch as the word "merchandise" is omitted from the bill under consideration leaving specific kind of cars in, viz.: Freight, lumber and oil cars, it might be claimed that a coal, refrigerator or stock car was a merchandise car, and, therefore, authorized under the proposed bill to be placed in rear of a passenger coach. If such construction could be drawn from the language, the bill would be a most dangerous one to be enacted into law.

It may be proper to remind you that the object of this original act prohibiting freight cars, etc., being put in rear of passenger cars was to promote the safety of travel. Inasmuch as freight, lumber, oil and merchandise cars are not equipped with air-brakes, the danger in a collision of a passenger car in front of them being crushed to pieces by them would be very great.

The Board has been led to understand that the original object in introducing this bill was to permit baggage cars that have not been equipped with steam pipes to be placed in rear of passenger cars that were thus equipped, thus enabling a train to be heated by steam, even if the baggage car was not so equipped. If this were all the bill effected, there could be no reasonable objection to it. The elimination of the words "merchandise car," however, leading to a possible construction that any kind of car, such as coal cars, refrigerator cars, stock cars, etc., other than those specifically prohibited, might be placed in rear of a passenger car raises an objection to the bill which the Board deems very serious.

By the Board.

WILLIAM C. HUDSON,
Secretary.

VIII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO INCORPORATE THE NEW YORK AND BROOKLYN TUNNEL COMPANY," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 8, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 356), entitled "An act to incorporate the New York and Brooklyn Tunnel Company."

This bill provides for the creation of a corporation having a stock of \$12,000,000, divided into 120,000 shares of \$100 each, to build a tunnel from a point at or near the intersection of Battery place and

State street, in the city of New York, to a point on Atlantic avenue between Court and Hoyt streets, in the city of Brooklyn.

Sections one, two, three, four and five simply provide for the financial creation of the company.

Section six provides "that after the stock shall have been fully paid for, the said stockholders shall not be responsible for any debts or liabilities of the said corporation." An exception is thus made to the general policy of the State in that the stockholders are not liable for laborers' liens. This is objectionable.

Section seven provides "that the said corporation may erect a tunnel of iron or masonry or both across and under the bed of the East river, between the cities of New York and Brooklyn in the State of New York, from a point at or near the intersection of Battery place and State street, in the said city of New York, and running thence southeasterly 1,300 feet more or less under the upland to the bed of the East river, and thence running southeasterly under the bed of the said East river to the upland on the Kings county side of said river, and thence running under the said upland 3,000 feet, more or less, easterly from low water line to a point on Atlantic avenue between Court and Hoyt streets in the city of Brooklyn."

Section eight provides "For the purpose of making, constructing and operating the said tunnel, the said corporation may enter upon and take possession of the lands not under water on each side of the river, where the termini of said tunnel shall be erected, and the said corporation on taking possession of such lands and upon receiving a conveyance thereof shall pay to the owner or owners the value of so much of the same as may be necessary for making and erecting said tunnel and approaches, establishing gates, toll-houses and all other works to said tunnel, and in case of a disagreement between the said parties as to such value, the same shall and may be ascertained by three commissioners who shall be appointed for the purpose on eight days notice by the Supreme Court of the State of New York on application of the president and directors of the said The New York and Brooklyn Tunnel Company."

There are very serious objections to this section:

First. In case of disagreement between the said parties as to the value of real estate to be taken, the company "upon eight days notice" (it does not say whether to the parties or to the court itself) may have commissioners appointed who shall appraise the value of the land and whose appraisal is absolutely final. Such appraisal does not require the confirmation or approval of the court, nor is there any provision for appeal to the court or to the general term in case of injustice being done. This would be a summary and unjust way of seizing private property. It is contrary to the declared policy of the State as shown in the General Railroad Act and in the Rapid Transit Act, in both of which elaborate provisions are made for exercising the right of eminent domain by notice to the property holders and by provisions for appeal in case of injustice being done.

Second. The bill provides that on receiving a conveyance of land the company "shall pay to the owner or owners the value of so much of the same as may be necessary for making and erecting said tunnel and approaches." It would appear from this language that the

intention of the bill is to permit the company to acquire a lot or house and pay for only so much as it might require to use thereof. Such a provision is in violation both of the Constitution of the United States, and of section six, article one of the Constitution of the State, which provides that private property shall not be taken for public use without just compensation.

Third. Beside the private property which the company would be allowed to take, there would be no limit to the city property on the park known as the Battery which it might acquire under this bill for terminal facilities or other purposes, to the great detriment of such park and the city of New York.

Fourth. At any time after \$50,000 is subscribed the company could go on and open up the tunnel and possibly destroy private property under which it passed without the financial ability to pay for the damages inflicted. Before permitting a company to begin work in such an extensive enterprise as this there should be required a large fund in its treasury to be drawn against for damages done to both private and public property.

Fifth. The bill is disapproved by the mayor of the city of New York, and a brief by the corporation counsel, Mr. Beekman, has been filed with you, expressing his reasons for such disapproval. They are, briefly:

1. The bill is in contravention of section 18, of article three of the Constitution of the State, which prohibits the Legislature from passing a private or local bill granting to any corporation, association or individual the right to lay down railroad tracks.

2. That the tunnel runs under numerous streets, the fee of some of which is vested in the city; that the company is, therefore, authorized to exercise a valuable franchise in said streets without provision for any compensation to the city and without being subject in any way to regulation and control by the city authorities.

3. The right of compensation for land taken is, by section eight of the proposed law, limited to lands not under water on each side of the river where the termini of said tunnel shall be erected. As a matter of fact, the land under water within the thousand feet line through which the proposed tunnel must pass, belongs in fee to the city and the property rights thus authorized to be acquired by the proposed tunnel company in land under water will become vested in it without compensation to the city which owns such land.

For the above reasons, the Board would respectfully recommend that the bill shall receive Executive disapproval.

By the Board.

WILLIAM C. HUDSON,
Secretary.

IX.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 420, LAWS OF 1880, ENTITLED 'AN ACT TO AMEND CHAPTER 123, LAWS OF 1874, ENTITLED AN ACT TO AMEND THE CHARTER OF THE HUDSON, SUSPENSION BRIDGE AND NEW ENGLAND RAILWAY COMPANY,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 8, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 308) entitled "An act to amend chapter 420 of the Laws of 1880, entitled 'An act to amend chapter 123 of the Laws of 1874, entitled An act to amend the charter of the Hudson, Suspension Bridge and New England Railway Company.'"

This company was organized May 28, 1868, under a special act of the Legislature, entitled "An act to incorporate the Hudson, Highland Suspension Bridge Company," being chapter 332 of the Laws of 1868. It authorized the company to erect and maintain a bridge over the Hudson river, between Verplanck's Point and Buttermilk Falls for the passage and transportation of passengers, railroad trains, teams, vehicles, cattle, horses, sheep, swine and other merchandise and property. The act provided it should be completed before the fourth day of July, 1871.

By chapter 769, Laws of 1870, the company was authorized,

First. To change its name from the Hudson, Highland Suspension Bridge Company, under which it was organized, to the Hudson, Suspension Bridge and New England Railway Company.

Second. To build and operate a railway in connection with the bridge from the Connecticut State line to a point on the Erie railway at or near Turners' Station, whereupon the company was made subject to the provisions of the General Railroad Act.

Third. The time was extended for the completion of the work of railway and bridge to July 4, 1875.

By chapter 330, Laws of 1873, the company was authorized to extend its lines to the New Jersey State line.

By chapter 123, Laws of 1874, the time for completing the work was extended until July 4, 1880.

By chapter 403, Laws of 1875, the use of the bridge was limited to the sole benefit and accommodation of railroad corporations in running their trains over the same.

By chapter 420, Laws of 1880, the time for completion was further extended until July 4, 1890.

In its annual report submitted to this Board for the year ending September 30, 1888, the company claims to have issued for engineering, legal fees, office expenses and labor \$946,700 of stock, \$574,000 first mortgage bonds, and \$124,665 certificates of indebtedness. The amount of money realized for these securities does not appear.

The present bill extends the time for the completion of the bridge and railway until the 4th of July, 1895. A provision is further inserted that the time for the completion "of the railroads or railways" shall also be extended until the last named date. Inasmuch

as these words would appear to apply simply to the railroads and railways of the Hudson, Suspension Bridge and New England Railway Company, the probabilities are that they revive no expired charter, but simply provide that the railroads or railways to be constructed by this company in connection with its bridge shall have their time extended in the same way as that of the bridge.

The Board has been informed by Senator Pierce, the introducer of this bill, that the object of this extension is to enable the promoters of the enterprise to secure capital in England to carry it through.

With regard to the general policy of granting a further extension, the Board can only say that this company has already had its time extended nineteen years, and has done apparently nothing in the way of construction. The possibility of such a work as this being undertaken is likely to prevent the initiation of other railroads and enterprises which would be unnecessary and unprofitable if such a bridge were completed. It is, therefore, a question of public policy whether the conditions of uncertainty incident to the existence of such a charter as this it is desirable to prolong.

By the Board.

WILLIAM C. HUDSON,
Secretary.

X.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT IN RELATION TO RAILROAD CORPORATIONS," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 14, 1889.

To the Governor of the State of New York :

The Board herewith respectfully returns Assembly bill (printed No. 1050) entitled "An act in relation to railroad corporations."

This bill is a general extension of two years to all railroad corporations heretofore organized within which to complete their roads, excepting the Niagara Falls and Whirlpool railroad, the Lackawanna, Pittsburgh and Northeastern railroad, and such corporations as may have been organized for the purpose of constructing or operating a railroad in the city of New York or Brooklyn.

Section 47 of the General Act provides that a road must be put in operation within seven years from the time of filing its articles of association. Chapter 775 of the Laws of 1867 extends the time for the completion of its road to ten years from the date of filing its articles of incorporation. Chapter 598 of the Laws of 1875, as amended by chapter 350 of the Laws of 1879, extends the time two years more to corporations organized previous to 1875. Chapter 405 of the Laws of 1882, again extends the time two years more to corporations organized previous to 1882.

If a corporation has been organized previous to 1875, therefore, it would have fourteen years within which to complete its road from the time of filing its articles of association; if organized subsequent to 1875 and previous to 1882 it would have twelve years within which

to so complete its road. It is possible that chapter 350 of the Laws of 1879 may have given a further extension of two years, making the total time within which to complete fourteen or sixteen years, as the case may be.

This general extension of two years is of very doubtful expediency. It is possible that there may be some corporations in the State who merit further extension of time within which to complete their tracks. It would seem better to have them mentioned specifically by name and the merits of each determined, than to pass a general bill of this character extending the time to all corporations without regard to the special merits in each case.

But the principal, and, in the opinion of the Board, fatal objection to the bill is that a clause occurs as follows, "and failure to construct its railroad heretofore shall not cause a forfeiture of its corporate powers." This infuses new life into corporations long since defunct and is a most dangerous clause.

In a general bill of this nature, a proviso should be inserted similar to that in chapter 598 of the Laws of 1875, as amended by chapter 350 of the Laws of 1879, to wit, "but nothing herein contained shall have the effect of reviving any corporation whose corporate power has been forfeited from any cause."

For the above reasons, the Board deems that should this bill become a law it might be attended with grave detriment to public interests.

By the Board.

WILLIAM C. HUDSON,

Secretary.

XI.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO EMPOWER THE TRUSTEES OF THE WILLARD ASYLUM FOR THE INSANE TO GRANT A RIGHT OF WAY TO THE GENEVA AND VAN ETTENVILLE RAILWAY COMPANY THROUGH THE LANDS OF THE STATE APPURTENANT TO SAID ASYLUM, AND UNDER THE CHARGE AND MANAGEMENT OF SAID TRUSTEES," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill printed No. 570, Executive No. 139, entitled "An act to empower the trustees of the Willard Asylum for the Insane to grant a right of way to the Geneva and Van Ettenville Railway Company through the lands of the State appurtenant to said asylum, and under the charge and management of said trustees."

Upon April the twenty-fourth the Board made a report upon this bill to you recommending its approval, a copy of which is appended hereto.

Since that time the bill has been recalled and amended by requiring in sections one and two the approval of the Comptroller of the State to the agreement made by the trustees with the railroad company, and also by adding a third section to the effect that the purchase-

price to be paid by the railway company for such right of way through such lands shall be paid into the treasury of the State, and the Comptroller of the State shall not indorse his approval upon the agreement provided for in the second section of the act until he shall receive satisfactory evidence that such payment has been made.

The amendments appear to be in the nature of improvements, and the Board deems that the bill can with propriety receive Executive approval.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 140, LAWS OF 1850, ENTITLED 'AN ACT TO AUTHORIZE THE FORMATION OF RAILROAD COMPANIES AND TO REGULATE THE SAME,' AND THE ACTS AMENDATORY THEREOF, RELATING TO THE INCREASE OF CAPITAL STOCK," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No. 587, Executive No. 102) entitled "An act to amend chapter 140 of the Laws of 1850, entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' and the acts amendatory thereof, relating to the increase of capital stock."

Section nine of the General Act reads: "In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road," etc. The bill under consideration reads: "In case the capital stock of any railroad company formed under this act *or organized and existing under the laws of this State* is found to be insufficient," etc. The only amendment, therefore, consists in inserting the words "or organized and existing under the laws of this State."

The Board does not know what corporations it is intended to reach by this amendment, but presumes it must be some organized under special act which are not given the authority to increase their capital stock.

There appears to be no objection to the bill. Indeed, if there be any corporation without authority to increase its capital stock it is but proper that such corporation should be put upon the same footing with other railroad corporations of the State.

The Board deems, therefore, that the bill can with propriety receive Executive approval.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XIII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO REGULATE THE CUSTODY AND DISBURSEMENT OF ELEVATED RAILWAY INCOME PERCENTAGE SPECIAL TAX RECEIPTS IN CERTAIN CASES," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York :

The Board herewith respectfully returns Senate bill (printed No. 608, Executive No. 43) entitled "An act to regulate the custody and disbursement of elevated railway income percentage special tax receipts in certain cases."

As stated by the corporation counsel of the city of New York in a brief with regard to this measure, "The object of the bill is to turn over to one Charles T. Harvey the sum of \$206,611.70 now in the treasury of the city of New York and the property of the corporation, as an indemnity to him for certain wrongs which he is alleged to have suffered by reason of some supposed acts of bad faith toward himself on the part of State officers or State authority in connection with a railroad enterprise in the city of New York."

The merits of Mr. Harvey's claim have been differently viewed by bodies and committees investigating it. The Board is not prepared to express an opinion thereon at the present writing. It deems, however, that it can with propriety fall back upon a decision of the Court of Appeals rendered June 1, 1886, in a suit brought by the city of New York to resist the payment of these funds to Charles T. Harvey in accordance with chapter 554 of the Laws of 1885, which law at that time was declared unconstitutional.

In that decision, speaking of the experiments which Mr. Harvey made and for which he demands this compensation, the court says: "But these were Harvey's experiments. No one directed him to make them. Neither the city nor the State, so far as the record shows, owed him anything for them or was under the slightest legal or equitable obligation to bear their expense and compensate him therefor."

Chapter 554 of the Laws of 1885 having been declared unconstitutional, Mr. Harvey has secured the passage of the present bill.

Section one provides that the amounts of income percentage special tax receipts paid to the comptroller of the city of New York under the provisions of the various acts requiring certain percentages to be paid into the city for certain purposes, shall be turned over to the State Treasurer as a trustee for the purposes mentioned in the bill under consideration.

Section two provides that the State Treasurer as such trustee shall designate the moneys received under the provisions of this bill as belonging to the "Experimental Elevated Railway Credit Fund," "and shall pay therefrom only such sums as are declared by law to be equitable claims incurred in securing the benefits to the city of New York of the introduction of elevated railroads as a means of rapid transit therein, until said claims are duly liquidated."

It appears from this section that such equitable claims are made a preferred lien upon the income of the city of New York derived from

the elevated railroads, and should the bill become a law, would probably all be absorbed by the claimant.

Section three provides:

In subdivision one, that the sum of \$206,611.70 shall be paid to Charles T. Harvey as indemnity for experiments made by him heretofore.

In subdivision two, that such sum as the Attorney-General shall certify to be a proper one shall be paid to Harvey to reimburse him for costs and counsel fees incurred in endeavoring to obtain the moneys claimed by him.

In subdivision three, that other sums shall be paid him equal to the interest upon the original sum mentioned from the date of acceptance of said experimental section by the State, provided he can show to certain State officers that certain methods of propulsion that he advocated, viz., by cable, would have been better for the city of New York than that adopted by the city subsequently, viz., locomotives, for elevated structures.

Section four provides that in case the accumulations of the fund in the city treasury are not sufficient to meet the appropriations made in the bill, that such portions as are available from time to time shall be paid in sums of five thousand dollars or multiples thereof.

Section five makes it the duty of the Attorney-General to take all such legal measures as may be necessary to insure prompt compliance with the provisions of the act.

Section six repeals all acts inconsistent with the act.

Section seven provides that the act shall take effect immediately.

An elaborate brief from the corporation counsel of the city of New York, as before mentioned, is among the papers filed with this Board. Mr. Beekman first gives a narrative of the facts connected with the building of elevated railroads in the city of New York, and finds that Harvey is entitled to no legal or equitable claim for compensation by the city.

His objections to the bill are briefly as follows:

First. The money is the property of the city. It has been paid to it under a contract made inviolable by act of the Legislature as compensation for the use of certain of the streets of the city by the elevated railroads.

Second. The bill is claimed to be unconstitutional, in that it violates section second of article eight of the Constitution of the State, which declares that "no county, city, town or village shall hereafter give any money or property or loan its money or credit to or in aid of any individual, association or corporation."

Third. That the bill violates section ten of article eight of the State Constitution which provides that "Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking."

Fourth. That it violates section nineteen of article three of the Constitution which provides that "The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law."

Fifth. That the bill violates the Constitution of the United States, which forbids the passage of any law impairing the obligation of a

contract, in that the payment of certain sums from the elevated roads to the city of New York is a contract obligation and that this bill requires their diversion to some other party than the city of New York.

For the reasons, as elaborated by Mr. Beekman and for the others enumerated by the Board, the Board is of the opinion that the bill is one from which the Executive might with great propriety withhold approval.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XIV.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT REGULATING RAILWAY APPLIANCES TO BE USED ON ALL RAILWAY LINES WITHIN THE LIMITS OF THE STATE OF NEW YORK," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 572, Executive No. 147) entitled "An act regulating railway appliances to be used on all railway lines within the limits of the State New York."

This bill provides that all persons and corporations operating any line or lines of railway by steam power in this State shall, after the first day of November, 1892, equip all of their own engines and freight cars run and used in freight trains or other trains in this State with automatic self-couplers.

Section two empowers the Railroad Commissioners to extend the time for a year in special cases.

Section four of chapter 439 of the Laws of 1884, provides that "after July 1, 1886, no coupler shall be placed upon any new freight car to be built or purchased for use in whole or in part upon any railroad in this State," unless the same can be coupled and uncoupled automatically.

The Board has not the information before it of the number of cars in the State equipped with automatic couplers in conformity with this last quoted section. Inasmuch as it applied only to new cars, the Board is under the impression that comparatively few have thus been equipped.

The bill under consideration provides that after November, 1892 (three years and a half from date), all the cars of corporations operating railroads in this State shall be equipped with such couplers.

The reports from the railroads of the State show that the cars owned within the State aggregate 155,746.

The type of coupler adopted finally by the Master Car Builders' Association, in order to permit interchange of cars between different railroads, is the Janney. There are several filling this type, of which the average cost would be, perhaps, \$12. To conform with the law, and with the recommendations of the Master Car Builders' Association would, therefore, cost the railroads about \$1,800,000.

The Board does not deem that this is too large a sum or that the time within which to conform is too short to secure this much needed reform.

The difficulty is that no provision is made in the bill for the cars coming from other States being provided with this coupler. As a very large proportion of the cars run within the State of New York belong to corporations without the State and are, therefore, not within the scope of this bill, it is questionable whether the act would produce the beneficial results that its projectors anticipate. Possibly an improvement to the bill would have been that no car would be permitted to run within the State after the date mentioned, unless equipped with such coupler.

On the whole, however, the Board is of the opinion that the bill is a step in the right direction, and that it can receive Executive approval with benefit to public interests.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XV.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT FOR THE RELIEF OF THE UTICA BELT LINE STREET RAILROAD COMPANY," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 605, Executive No. 179) entitled "An act for the relief of the Utica Belt Line Street Railroad Company."

The bill relieves the Utica Belt Line Street Railroad Company from constructing and operating a portion of its road in the city of Utica, defined in the first section of the bill.

The Board has no official information as to the merits of this measure, but it is informally advised that the bill is a meritorious one and not detrimental to public interests.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XVI.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT RELATIVE TO AND PERCENTAGES TO BE PAID BY STREET SURFACE RAILROAD COMPANIES," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 627, Executive No. 189) entitled "An act relative to and percentages to be paid by street surface railroad companies."

Section one provides that "all percentages which shall heretofore and prior to the passage of this act have been agreed to be paid by any street surface railroad company to the city treasurer in consideration of the consent of the local authorities to use the streets, shall or may be revised, corrected and reduced by the commissioners of the sinking fund or other officers authorized by law to receive such percentages, in case such company shall submit its books of account and proofs as to cost of construction and the expense of operating its railway to such commissioners or other officers, and it shall be made to appear by such company to said commissioners or such other officers that in and by the actual operation of such railway such percentage is unjust, unreasonable and impracticable of payment, such commissioners or other officers shall have the power and are hereby authorized and required to revise, correct and reduce such percentage to a fair, equitable and commensurate amount, and such revision, correction and reduction when submitted to and confirmed by the General Term of the Supreme Court shall supersede and take the place of the percentage at which such sale was made, and shall be the rate of compensation to be paid."

It will be thus seen that provision is made by the bill for reducing the percentages to be paid by street railroads heretofore (not hereafter) constructed when such railroads can show to the proper city authorities that the percentage bid is an unjust burden upon them.

Objection is raised to this bill by some upon the ground that the percentage bid and agreed upon by the corporation becomes part of a contract with the city which it entered into deliberately with its eyes open and to which it should be bound to conform as any other business man or company is bound to conform to the terms of a contract into which he enters. It is also urged that if the franchise turns out extremely profitable the city derives no benefit from such profit over and above the amount that it agreed should be paid into its treasury.

On the other hand, however, advocates of the measure hold that the rigid conditions of a contract between private individuals or companies should not be imposed by government upon its citizens when it can be shown that the citizen or corporation is unduly burdened and, perhaps, broken by the terms of such contract.

In view of the checks provided by the bill and of the obligation thrown around the corporation to demonstrate that the burdens imposed by the bid are intolerable, the Board is of the opinion that on the whole the first section of the act could without detriment to public interests, and very likely with justice to private interests, receive Executive approval.

To the second section, however, of the bill there are grave objections. This section provides that "No consent heretofore and prior to the passage of this act given by the local authorities of any incorporated city or village to and for the construction and operation of any street surface railroad within the State shall cease and determine or be deemed to have heretofore ceased and determined provided that *within three years from the date of the passage of this act* the consents of the owners of one-half in value of the property bounded upon that portion of any street, avenue or highway upon which such railroad is proposed to be constructed and operated, shall be obtained, or the

determination of the commissioners appointed by the General Term of the Supreme Court."

It will thus be seen that the consents of local authorities, long since lapsed by reason of the failure of the corporation to secure the consent of the abutting property holders, or commission in lieu thereof, are revived by this section for a length of time extending three years beyond its passage.

The Board deems that this is inexpedient in the extreme.

Section four of the General Street Railroad Act, chapter 252, Laws of 1884, provides that any consent given by the local authorities shall cease and determine at the expiration of one year thereafter, unless prior to the expiration of such period the company obtaining such consent shall have filed the consent of the requisite amount in value of property owners, or the determination of commissioners confirmed by the court.

Section two of chapter 642 of the Laws of 1886, known as the amended Cantor Act, provides that all consents given by the local authorities shall cease and determine at the expiration of two years thereafter, unless prior to the expiration of such period the consent of the owners of a sufficient proportion of the property, or of a commission appointed by the court, shall have been obtained.

For the above reasons the Board deems that, should this bill become a law, it might be attended with detriment to public interests.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XVII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 252, LAWS OF 1884, ENTITLED 'AN ACT TO PROVIDE FOR THE CONSTRUCTION, EXTENSION, MAINTENANCE AND OPERATION OF STREET SURFACE RAILROADS AND BRANCHES THEREOF IN CITIES, TOWNS AND VILLAGES,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York :

The Board herewith respectfully returns Senate bill (printed No. 590, Executive No. 190) entitled "An act to amend chapter 252 of the Laws of 1884, entitled 'An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages.'"

The bill under consideration is an amendment to section 12 of the General Street Railroad Act. That section at present provides that, "Any street surface railway company may in any case operate any portion of its road by animal or horse power, or by any power other than locomotive steam power which may be consented to by the local authorities and by a majority of the property owners obtained in accordance with sections three and four of this act."

The bill under consideration amends this section by substituting the State Board of Railroad Commissioners for the local authorities, and by further providing that "it shall be lawful for any such rail-

road company to make any changes in the construction of its road or road-bed at any time rendered necessary by a change in its motive power."

It appears that the Third Avenue Railroad Company of the city of New York applied to the commissioner of public works in 1887 for permission to excavate the streets, with a view of changing its motive power from horse to cable. The permission was denied, and an application for a writ of *mandamus* compelling him to grant permission was finally carried to the Court of Appeals and decided against the company. The question of the right of the company to substitute cable for horse under section 12, if permission had been granted by the local authorities, does not appear to have been touched on by the court.

The Board knows of no good reason why the Board of Railroad Commissioners should be substituted for the local authorities by general legislative enactment, simply because the local authorities in a particular instance have declined to grant the permission requested. Were this principle of legislation followed there would be a shifting of permissive powers from one set of officers to another every time that the first set of officers declined to grant a permission rendered discretionary with them.

It can fairly be presumed that the local authorities having control of the streets in cities would be quite as good judges of the expediency of a change in motive power as the State Board of Railroad Commissioners.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XVIII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 305, LAWS OF 1885, ENTITLED 'AN ACT TO AUTHORIZE STREET SURFACE RAILROAD COMPANIES TO CONTRACT WITH EACH OTHER, AND PROVIDING FOR A PROPER SYSTEM OF TRANSFER OF PASSENGERS,' AND TO PERMIT PARTIAL ABANDONMENT OF ROUTE BY SUCH COMPANIES," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 581, Executive No. 191) entitled "An act to amend chapter 305 of the Laws of 1885, entitled 'An act authorizing street surface railroad companies to contract with each other, and providing for a proper system of transfer of passengers,' and to permit partial abandonment of route by such railroad companies."

The amendment consists in adding to section three a provision that "Any company being the lessee or lessor or both, or having the right to use the route or portion of the route of another company pursuant to a lease or agreement entered into as above provided, may declare relinquished and abandoned any portion of its own route which it may deem no longer necessary for the successful operation

of its road and convenience of the public in consequence of such lease or contract." Such declaration of abandonment is to be valid when adopted by the board of directors and two-thirds of the stockholders at a meeting called for the purpose, and with the approval of the State Board of Railroad Commissioners.

The Board is not aware of what particular case of abandonment this bill is intended to provide for. It can be easily conceived, however, that cases may arise where, in consequence of the lease of one railroad by another, a portion of the line so leased would become unnecessary to operate, and it would seem that some provision should be made for legally abandoning such portion.

The measures provided in the bill requiring the approval of the State Board of Railroad Commissioners it may fairly be presumed would prevent such abandonment being permitted where it would work a hardship or detriment to public interests, although the Board is of the opinion that were this power vested in the local authorities it would perhaps be better than to be vested in the State Board of Railroad Commissioners.

The Court of Appeals, in the case of *People v. Rome, Watertown & Ogdensburgh Railroad Company* (103 N. Y., p. 96), have decided that where a steam railroad company by consolidation becomes the owner of two lines of road between the same points, and can substantially accommodate the people of the State by operating one of them and can abandon the other without serious detriment to any considerable number of people, it can not be compelled by mandamus to operate both where the portion of the line that may thus be abandoned entails great expense without any return.

The application of this principle to street railroads would apparently justify an abandonment under certain conditions without the approval of any board, commission or local authority. If such be the law the enactment of this measure would be in the line of greater restrictions with reference to such abandonment.

The Board deems that the measure can receive Executive approval with benefit to public interests.

By the Board.

WILLIAM C. HUDSON,

Secretary.

XIX.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO INCORPORATE THE NEW YORK AND BROOKLYN TUNNEL COMPANY," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 356, Executive No. 245) entitled "An act to incorporate the New York and Brooklyn Tunnel Company."

This bill was referred by yourself to the Board, and a report submitted May the eighth calling your attention to the objections thereto,

and respectfully recommending that it should receive Executive disapproval.

Since then the bill has been recalled and amended to the extent of striking out the words in section 10 "by rail or otherwise." So that the section now reads: "The said corporation shall be and is hereby authorized to transport passengers and freight through the said tunnel, and to charge and collect rates of toll and fare," etc.

The Board presumes that these words "by rail or otherwise," were stricken out in order to meet the objection that the bill was in contravention of section 18 of article three of the Constitution of the State, which prohibits the Legislature from passing a private or local bill granting to any corporation, association or individual the right to lay down railroad tracks.

It would appear, however, from the brief of the advocates of the bill, that such tracks were but an incident to the tunnel and that they proposed to lay them down anyhow.

The Board deems that the several serious objections which it found to the bill still exist, and it can only repeat its language in the report of May 8th, and respectfully recommend that the bill receive Executive disapproval.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XX.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO REGULATE THE LIGHTING OF STEAM PASSENGER CARS," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No. 1210, executive No. 296) entitled "An act to regulate the lighting of steam passenger cars."

Section one provides that "it shall not be lawful for any steam railway company doing business in this State after the first day of October, 1890, to light its passenger cars with kerosene or other inflammable or explosive oils. * * * Provided that the Board of Railroad Commissioners may, upon application and for cause shown, exempt roads of less than fifty miles in length from the requirements of this act."

In its Fifth Annual Report (that for 1887) on page ten of the appendix will be found the following report of the Board in reference to the matter of lighting cars, in response to a resolution of the Legislature passed on February the 7th, 1887.

"LIGHTING.

"There were but two methods of improved lighting suggested at the hearing, that was by electricity and stored gas."

The method by electricity appears to be so expensive as to give but little encouragement to railroads to continue it.

"There does not appear to be any trustworthy evidence that the present method in general use of lighting the cars with lamps in which mineral sperm oil, so called, of 300 degrees test is used, is dangerous. The use of any oil of a less test ought to be forbidden. In case of collision or sudden shock the lamps are almost certain to go out.

"While, of course, candles would probably be safer in certain contingencies, it is very questionable whether the great inconvenience the public would be subjected to by such a dim light would be compensated for by the slightly increased safety.

"The method of storing gas in reservoirs on the cars is one which the Board is not prepared to pronounce as more or less safe than the lamps, there being no evidence attainable at present on the subject. The bursting of such a reservoir in a collision would let loose a highly inflammable material, liable to catch fire and do great injury."

The Board knows of nothing to alter its conclusion as therein expressed since the report was made.

The methods now being experimented upon by railroads for lighting cars, known as the "Pinch System" and others, consist in storing gas, either common coal gas or a gas from petroleum, in reservoirs under the cars. The Board is not prepared to give such a system its sanction, certainly at present.

It is quite possible that the promoters of these systems are anxious for the passage of some such measure as this with the view of advancing their particular interests.

Since the Board has been in existence there has not come within its knowledge a single case of a railroad car, either in collision or otherwise, within this State, having caught fire from the lamps. While unquestionably material saturated with kerosene oil would be more inflammable than not so saturated, as a matter of fact, the above statement is true.

It is also true that petroleum in the form of mineral sperm oil of three hundred degrees fire test is not at all inflammable, and as little likely to promote conflagrations as any illuminating material in general use.

It is proper to call your attention to section two, chapter 292, Laws of 1882, which provides that no oil of less than three hundred degrees Fahrenheit shall be carried or burned for illuminating purposes in passenger cars.

For the above reasons the Board would regard at present the enactment into law of such a bill as the one under consideration as of very doubtful expediency.

By the Board.

WILLIAM C. HUDSON,

Secretary.

XXI.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AMEND CHAPTER 198, LAWS OF 1876, ENTITLED 'AN ACT TO AMEND CHAPTER 140, LAWS OF 1850, ENTITLED AN ACT TO AUTHORIZE THE FORMATION OF RAILROAD CORPORATIONS AND TO REGULATE THE SAME,' SO FAR AS THE SAME RELATES TO CITIES OF LESS THAN ONE MILLION INHABITANTS," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York :

The Board herewith respectfully returns Assembly bill (printed No. 508, Executive No. 329) entitled "An act to amend chapter 198 of the Laws of 1876, entitled 'An act to amend chapter 140 of the Laws of 1850, entitled An act to authorize the formation of railroad corporations and to regulate the same,' so far as the same relates to cities of less than one million inhabitants."

This bill amends chapter 198 of the Laws of 1876 by adding thereto six sections to be numbered six, seven, eight, nine, ten and eleven.

First. As to the form of the bill. Your attention is called to the fact that the act amended has had but three sections originally, consequently should this bill become a law there would be a gap of two sections, viz., four and five.

It would also appear to be in contravention of section seventeen of the Constitution which provides that "No act shall be passed which shall provide that any existing law or any part thereof shall be made or deemed a part of said act or which shall enact that any existing law or any part thereof shall be applicable except by inserting it in such act." The Board is aware that the decisions of the court and the habit of the Legislature have been substantially to almost annul what would appear to be the plain meaning of this constitutional provision. If, however, a case can be conceived of where it is violated, this would seem to be such a case.

Second. The first amendment, numbered section six, provides that any railroad corporation building or operating an elevated railway may condemn land under the provisions of the General Railroad Act and acts amendatory thereto, but that it shall not be necessary to file any map or profile or to refer thereto in the petition for the appointment of commissioners of appraisal. In other words, the section enables any corporation building an elevated railway to use the machinery of the general railroad for condemning land instead of the provisions of the act under which such corporation is organized.

The Board does not know the object of this amendment, for the reason that under the Rapid Transit Act, passed for the special purpose of building elevated railroads, an amendment was adopted last year incorporating the provisions of the General Railroad Act with regard to acquiring and condemning real estate (see section 18 thereof). The Board is under the impression that in all other acts the provisions of the General Act with regard to condemning land are made applicable.

It appears, therefore, to the Board that this is a superfluous if not objectionable section.

Third. Section seven provides that "Where personal service is made upon the owners of any such lands or easements of the notice to be given for the application for the appointment of commissioners of appraisal in such proceedings, no publication thereof or of the notice of hearing required by section two of the act hereby amended need be made."

This section explains itself. The Board sees no good reason why the well-established methods of publishing notice of the hearing should be departed from in the case of elevated railroads. While, to be sure, if the abutting property owners get their personal notice, publication to them might appear superfluous, but many people are interested in works of this kind beside the immediate abutting property holders. Those living half a block off, or one lot off, are entitled to a notice of the hearing that may so vitally affect their interests.

The Board deems, therefore, that the section is an objectionable one.

Fourth. Section eight provides that "All commissioners heretofore appointed or that may be hereafter appointed to appraise the *real estate or easements in any street or avenue* in any such city belonging to the owners of premises abutting thereon and taken or sought to be acquired by an elevated railroad company * * * shall award to the owner or persons interested in such abutting property as the value of the property and easements in said street or avenue appurtenant thereto taken or affected thereby *the net depreciation in the market value of such abutting property caused by the taking or impairment of the easements appurtenant thereto* by the construction and operation of such elevated railroad in the street or avenue upon which such premises abut, in excess of any enhancement in the value of such abutting property which the commissioners may find has or will arise from the construction and operation of such railroad therein. The making and payment of any such award shall not debar the owner or person interested in the abutting premises from claiming further compensation in case, after such award, the character or extent of the structure in front of or abutting on said premises shall be changed to the detriment thereof. In case the extent to which the street is to be occupied shall not be specified in the petition or in the order appointing the commissioners, the latter shall in their award report the extent and nature of the occupation thereof for which they allow compensation and the company shall be limited in their occupation of the street without further compensation to the abutting owner to that covered by the award."

This section provides that the compensation to be awarded to the abutting property holder for damage done to his property, or as the price for his reversionary or contingent interest in the street, interference with light and air, etc., shall be diminished by any supposed increase of value that the property may derive from the building of such elevated railroad. It is an entire change in the well established principles of appraising the damages done by railroads passing in front of private property. It is suggested entirely in the interest of the corporation, and without regard to the views or interests of the property holder.

It would be a very difficult matter for the commission to determine how or what the enhancement in price is going to be after a number of years from the building of this elevated road.

The provision that a property holder may apply for further compensation, only affects a case where the character of the structure is changed from that presented to the commissioners as the one intended, and would, therefore, be of small comfort or benefit in the majority of cases.

The Board deems that such a revolutionary change in the law is of more than questionable expediency.

Fifth. Section nine provides that "this act shall apply to all proceedings in cities of less than one million inhabitants pending at the time of the passage of this act."

A reading of the section is sufficient to show that it is intended to materially modify, in the interest of elevated railroads, many actions for damages now pending.

Sixth. Section ten exempts the city of New York from the provisions of the act.

It is a notorious fact that this most important bill was passed amid the confusion and turmoil of the last days of the Legislature under circumstances which precluded its receiving that attention which its importance demands.

The Board deems that should this bill become a law it might be attended with grave perils and injustice to private interests.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XXII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT AUTHORIZING RAILROAD CORPORATIONS WHICH HAVE PURCHASED THE RIGHT, FRANCHISE AND PRIVILEGE OF USING STREETS, ROADS, AVENUES, PARKS OR PUBLIC PLACES AT PUBLIC AUCTION FOR A PERCENTAGE PER ANNUM OF THEIR GROSS RECEIPTS TO USE THE TRACKS OF OTHER RAILROAD COMPANIES," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No. 1011, Executive No. 335) entitled "An act authorizing railroad corporations which have purchased the right, franchise and privilege of using streets, roads, avenues, parks or public places, at public auction for a percentage per annum of their gross receipts to use the tracks of other railroad companies."

This bill, though general in its terms, is really a private bill to enable the North and East River Company to use the tracks of another railroad company in opposition to the wishes of the latter. Upon the merits of the controversy between the two companies the Board can not express an opinion. A brief, however, from Vanderpoel, Cuning & Goodwin, on behalf of the opposing railroad, to which your attention is directed, is among the papers connected with this bill, wherein the points seem to be well taken in opposition.

The Board will not repeat the points therein further than to draw attention to the fact that section 14 of the General Street Rail-

road Act, i. e., chapter 252, Laws of 1884, provides that "any two or more railroad companies now existing or hereafter formed under the provisions of this act may join and unite to use each others tracks for a distance not exceeding 1,000 feet, whenever the court upon the application for the appointment of commissioners next hereinafter provided shall be satisfied that such use is actually necessary to connect main portions of the line to be constructed as an independent railroad, and that the public convenience requires the same."

The use, therefore, of the railroad of one company by another for 1,000 feet has been the declared policy of the State.

As hereinbefore stated, the Board is not sufficiently aware of the merits of the controversy in question to justify it in recommending that an exception should be made thereto by legislation in favor of any one railroad in the summary manner provided in the bill, a section of which enables one railroad to enter upon the tracks of another pending legal proceedings before any adjudication.

For the reasons above given, and with the lights before the Board on the subject, it deems that the enactment into law of the above measure might be attended with injustice to certain corporate interests.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XXIII.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO REGULATE THE POWERS OF THE UNITED STATES HARVEY WAY CONSTRUCTION COMPANY," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No. 530, Executive No. 347) entitled "An act to regulate the powers of the United States Harvey Way Construction Company."

Section one of this bill provides that the United States Harvey Way Construction Company shall hereafter be competent to receive as owner or trustee the title to patents issued from time to time by the United States or other governments to Charles T. Harvey, or by assignment from other persons or parties.

Section two provides that the company may exercise all powers as owner or trustee of said patented inventions to the same extent as the person or persons obtaining the same.

Section three provides that the company shall have power to grant local or geographical licenses to promote or to manufacture, or to construct or to operate such patented railway or inventions to persons or associations.

Section four provides that the organization and methods of corporate procedure of said company for the transaction of its business as herein provided for, shall be continued under the provisions of the laws by which it is incorporated, but its powers to build railways

requiring it to condemn property therefor, or its liability to make reports as a railway company are hereby declared to be non-effective.

Section five provides that the company may apply for and receive judicial sanction for a change of its corporate name.

There does not appear to be any particular objection to this bill, but on the other hand the Board is not sufficiently familiar with the objects or purposes of the United States Harvey Way Construction Company to intelligently advise whether public interests would be subserved or private rights entitled to the enactment of this somewhat singular measure.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XXIV.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO EXTEND THE TIME FOR THE COMPLETION OF THE MECHANICVILLE AND FORT EDWARD RAILROAD," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 22, 1889.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No. 1050, Executive No. 286) entitled "An act to extend the time for the completion of the Mechanicville and Fort Edward Railroad."

Section one provides that "the time within which the Mechanicville and Fort Edward Railroad Company is required to complete its railroad is hereby extended for a period of two years from the passage of this act."

A bill having this number, viz., 1050, introduced by Mr. Hitt, being a general extension of two years to all railroad corporations heretofore organized, was referred by you to this Board and report made thereon May 14th, respectfully recommending that the bill be disapproved for reasons therein given.

It was recalled and amended so as to apply only to the Mechanicville and Fort Edward Railroad.

There can be no objection to the passage of the bill unless it be that it is superfluous, for the reason that this railroad having been organized in January, 1880, already has by the general laws of the State until January, 1892, within which to complete its tracks. (See report of May 14th.)

The Board is of the opinion that this is unquestionably the fact, but if there be any doubt upon it, there can be no objection to the present bill receiving Executive approval.

By the Board.

WILLIAM C. HUDSON,
Secretary.

COMPLAINTS

OF

CITIES, TOWNS, ASSOCIATIONS, INDIVIDUALS, ETC.

I.

WILLIAM ROWE, JR., v. THE OGDENSBURGH AND LAKE CHAMPLAIN DIVISION OF
THE CENTRAL VERMONT RAILROAD COMPANY.

February 29, 1888.

William Rowe, Jr., complained that he was overcharged for the transportation of one horse and a pair of oxen from Bangor, N. Y., to New Hamburg, N. Y. Mr. Rowe claimed that he was informed by an agent of the Ogdensburgh and Lake Champlain railroad that the charge would be thirty dollars, but on arrival of the stock at New Hamburg the freight bill called for forty-three dollars and forty-two cents.

A copy of the complaint was transmitted to the New York Central and Hudson River railroad, and under date of January 12, 1888, H. J. Hayden, second vice-president, replied that: "There was an overcharge of one dollar and forty-two cents (which has been refunded) on account of an error on the part of our agent in billing from Troy; but otherwise the charges are in accordance with freight tariff No. 560, May 8, 1887, and we can not find that any rate at variance with this tariff was given."

A copy of this statement was sent to Mr. Rowe, who answered January 16, 1888, that the explanation was not satisfactory and inclosed what purported to be a communication from A. V. Richey, agent of the Ogdensburgh and Lake Champlain railroad at Brasher, N. Y., in which the rate on one horse and two oxen from Brasher to New Hamburg, N. Y., is given at thirty dollars and sixty cents and the same from any station on the Ogdensburgh and Lake Champlain railroad.

On examination it is found that the agent at Bangor billed the stock at 7,000 pounds, the estimated cattle weight at fourth class rates thirty cents per hundred, making twenty-one dollars for the transportation through. The bill was, however, altered at Mooer's Junction from fourth to first-class rate, which is sixty cents per hundred. The agent at Bangor states that Mr. Rowe informed him that this rate was given to him by Mr. Richey, agent at Brasher, N. Y., and that being unable to find official classification in his office and relying upon Mr. Rowe's statement he did so bill the stock. It appears from the statements by the general freight agents of the three roads

over which the property passed, that no agent had authority to bill such stock excepting by carload lots at less than first-class rates, with weight estimated under the rule. Classification and tariff sheets were submitted sustaining this assertion. It would seem from this that the charges are regular and uniform, but it suggests a lack of management when an agent is unable to find official classification and quotes rates on his or others' judgment, as the agent who billed this stock admits. The liability of the principal for the acts of an authorized agent presents itself in considering this question, and it is shown that the agent of the Ogdensburgh and Lake Champlain railroad at Brasher, N. Y., gave the rate in writing to Mr. Rowe at thirty dollars and sixty cents for the transportation of two oxen and one horse from Brasher or any station on the road to New Hamburg, N. Y., and it further appears that the agent at Bangor billed the stock at even lower rates, which made the cost for transportation but twenty-one dollars.

Mr. J. B. Dutcher, general live-stock agent of the New York Central and Hudson River railroad, in a communication to the Board on this subject, January 28, 1888, says: "If an agent of the Ogdensburgh and Lake Champlain road quoted Mr. Rowe any different rates than sixty cents per hundred, this, on estimated weights of 7,000 pounds from Brasher, or any other point on the Ogdensburgh and Lake Champlain railroad to New Hamburg, he, or the road which he represents, is alone responsible for such rate, as we have no arrangements with that company for other than tariff figures, as shown in joint tariff No. 560, in force at the time of shipment."

In view of the facts as stated, it seems plain that the Ogdensburgh and Lake Champlain railroad is responsible for the rates given.

The agent at Bangor claims, however, that he was misled by Mr. Rowe; that he relied upon his statement that Mr. Richey, agent at Brasher, had given him the figures at fourth-class rates, making the charge for transportation twenty-one dollars, and that this governed him in making way-bill, inasmuch as he could not find official classification. If Mr. Rowe made this statement, he (Rowe) fails to sustain it; but the fact remains that the agent at Brasher, N. Y., did give Mr. Rowe a rate at thirty dollars and sixty cents, in writing, and in the opinion of the Board the Ogdensburgh and Lake Champlain railroad is held thereby, and that Mr. Rowe's claim against them for the difference, to wit, eleven dollars and forty cents, is just, and should be paid, and that hereafter the road should furnish their agents with official classifications, to the end that they may be able to quote uniform and correct rates in the future.

II.

F. D. MATHER v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

May 9, 1888.

F. D. Mather, of Belleville, Jefferson county, complained that during the summer of 1886 he had shipped to him several tons of iron posts, for fencing, packed in bundles, also with the posts, certain iron castings packed in boxes. The Rome, Watertown and Ogdensburgh railroad charged him from twenty-four to twenty-eight cents per 100 pounds on such freight, between Rome and Adams, two stations on that road, the distance being fifty-nine miles. But on one small consignment of similar goods, shipped from Syracuse to Adams, the rate was only fifteen cents per hundred upon two bundles of posts, the distance being the same. The consignee deemed the charges upon the two invoices from Rome excessive, and he asked the railroad company for a rebate but he was not able to obtain any reduction from the tariff rates.

The company stated that its agents at both termini named had made errors in billing some of the invoices, which were three in number, and the company would correct such errors, but it could not receive less than its regular tariff rates upon the goods when properly classified, weighed and billed. One consignment was from Rome to Adams, on May 19, 1886; the charges thereon were twenty-four cents per 100. The second one was on June 22, 1886, from Syracuse to Adams, 200 pounds weight, being two bundles of iron which were charged fifteen cents per 100 pounds, and one box of castings, fifty-five pounds, at twenty-four cents per hundred. The third, on June 24, 1886, was from Rome, on iron posts in bundles and castings in boxes, total, 7,395 pounds, and the charges thereon were twenty-eight cents per hundred.

There is no claim that the goods were not in good order, there is no difference as to the weights. The complainant makes two points, to wit:

1. If one lot of freight was transported for fifteen cents per 100 over the Rome, Watertown and Ogdensburgh railroad between points named, that other lots of same kind should be at the same rate.

2. That the rate on the same freight from Youngstown, Ohio, to Rome or Syracuse via the New York, Lake Erie and Western railroad, was only fourteen cents per 100.

The company claims that its agents made errors in billing the different shipments without classification and the weighing of the different articles, and also refers to the difference in rates on the same articles when "released" and not "released."

When coming from connecting roads, freight is charged by the road at "released" rates, if it is billed "released," and is charged the other rate if it is "not released" on bills. The shipment of May nineteenth was transferred to the company by its connections as "released," and was so billed. The shipment of June twenty-fourth was not transferred to the company as "released," and was not billed by the agent of the company at "released" rates. The shipment

from Syracuse was not correctly billed, either as to class or price. The iron fencing should have been billed at twenty-eight cents per hundred, and the boxes of castings should have been billed at eighteen cents per hundred. The company makes different rates on iron in bundles and iron fencing. The corrected rates, that is, the tariff rates between points named in complaint on the articles referred to, are stated by the company to be these:

	Released.	Not released.
Fencing and iron gate20	.28
Castings28	.18

(There seems to be a further error in giving the rate on castings. The Board must assume that the released rate is the smaller, and not the higher.)

The assumption of Mr. Mather, that all his shipments should be charged the lowest rates made on these invoices, is met by the statement of the company, that the several shipments on the different dates were not properly billed by the agents of the company, and were not all subject to same charges, because they were not billed in like conditions in respect to "release." For the errors made by agents the company is willing to make the proper and equitable corrections, so that the charges would be uniform and in conformity to the tariff of the company, and to the letter of advice to complainant by the freight manager of the company before either shipment was made.

It must be recognized that the charges made by the Rome, Watertown and Ogdensburg road are excessive as compared with those of most roads for the same service; yet it is scarcely a fair comparison to put its charges in this instance beside those made upon the same freight by the several connecting roads between Rome or Syracuse and Youngstown, Ohio. One rate is "through" and is competitive. The shipper at Youngstown has the choice of several roads in sending freight, so that he can realize all the benefits of competition. The full force of this advantage is proved by this comparison. The freight of Mr. Mather, the complainant, was shipped from Youngstown, via New York, Lake Erie and Western railroad to Syracuse for fourteen cents per hundred, the mileage is approximately 430 miles. But the regular tariff rates on New York, Lake Erie and Western railroad on such merchandise is very much more, to wit: New York, Lake Erie and Western rates sixty miles:

Iron fencing, released, twelve cents; not released, nineteen cents.

Castings, released, fifteen cents; not released, nineteen cents.

The mean charge on the freight under consideration, for sixty miles on the New York, Lake Erie and Western railroad, at tariff rates, exceeds the through charges on 430 miles.

The examination of the freight tariff of twelve railroads in this State shows a wide difference in the rates upon these classes of merchandise embraced in the complaint, thus:

Iron fencing, minimum for sixty miles, ten cents; maximum, twenty-five cents.

Castings, minimum for sixty miles, fifteen cents; maximum, thirty-one cents.

Wire gates, minimum for sixty miles, eleven cents; maximum, twenty-four cents.

Upon these twelve roads, excluding the Rome, Watertown and Ogdensburgh railroad, the average rates are, for sixty miles carriage:

Fencing, released, fourteen and three-fourths cents.

Fencing, not released, eighteen and seven-eighths cents.

Castings, released, eighteen and seven-twelfths cents.

Castings, not released, twenty-two and five-sixths cents.

Wire gates, not released, fifteen and seven-twelfths cents.

These figures demonstrate the fact that the range in the rates charged by different roads in the State upon the same freight, is extremely wide, one road asking two and a half times as much for the same service as another. Each road is vested with power to make its freight rates. Those of the Rome, Watertown and Ogdensburgh road are not the highest in the State. They are, however, much above the average rates, and are calculated to elicit the suggestion that a railroad company may fail to realize the highest possible income from its territory by charging such rates as to restrict business and to limit traffic upon its road instead of developing the country which is tributary to it. At present the law makes the roads the judges of the relations which they bear to such traffic and its development, provided the rates are reasonable and do not unjustly discriminate. Incidentally the Rome, Watertown and Ogdensburgh road asserts that it has paid no income to its stockholders in many years until during the last year, and that it can not justly be expected to do a losing business in the operation of its road.

While the rates on the Rome, Watertown and Ogdensburgh railroad appear to be extremely high as compared with those on other roads in the State, this Board does not feel warranted in positively recommending a general reduction upon the complaint of one individual, although it can properly throw out the suggestion that the rates of the railroad might be materially reduced on many articles, and that such reduction would be of benefit both to the road and its patrons. The Board can, in the matter of this complaint, only recommend that the amount of overcharge upon the consignments to Mr. Mather, made by the errors of the company's agent in billing goods wrongly, shall be corrected and the difference between the charges which were made and those which should properly be made in accordance with the tariff rates of the company shall be repaid to complainant at once.

III.

H. C. CRANDALL V. THE LACKAWANNA AND PITTSBURGH RAILROAD COMPANY.

September 15, 1888.

This complaint of date of September the 8th, 1888, alleged that the company for two years had paid no attention to repairing the fences on its line and that it was impossible to prevent complainant's cattle from

straying on to the track and going on to his neighbor's land, or, for the cattle of his neighbor straying upon his land. He further alleged that the company had refused to pay him for all animals it had killed.

The answer of the receiver was that owing to the financial condition of the road, it was unable to meet its obligations and had furthermore resulted in a temporary suspension of its operation; that steps were being taken to sell the road under foreclosure and effort would be made to put it on a better footing.

Since then the road has been sold and reorganized and the new officials are promising compliance with the statutes.

IV.

WM. WOOD v. THE ELMIRA, CORTLAND AND NORTHERN RAILROAD COMPANY

October 8, 1888.

The complainant alleged that a number of cases had occurred on the line of this road, whereby serious accident had been barely escaped through land slides, and that an efficient train examination and inspection was not maintained.

The company positively denied the statement, and, as the address of Mr. Wood could not be obtained and the original statement substantiated, and as the inspection instituted by the Board did not bear out the complaint, it was dismissed.

V.

IN THE MATTER OF THE COMPLAINT OF HAYES & OGDEN v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

October 22, 1888.

Messrs. Hayes & Ogden, of Utica, N. Y., complained that they were charged twenty-six cents per hundred by the Rome, Watertown and Ogdensburgh Railroad Company, for carrying corn (unground) from Utica "to all stations beyond Boonville and this side of Lowville," and that the railroad company charged but twelve and one-half cents per hundred on feed and ground corn to the same stations, and incidentally remarked that other roads running out of Utica carry the same freight the same distance and charge but five cents per hundred therefor.

A copy of the complaint having been sent to the Rome, Watertown and Ogdensburgh Railroad Company, reply was received from L. A. Emerson, general traffic manager, dated October 1, 1888, in which he says that, "The difference complained of by the parties in comparing the rate charged on flour and feed in ton lots with that charged on corn same quantity, is explained in the fact that a reduction was made on flour and feed, small lots, at the request of some of the small dealers, so as to enable them to compete with dealers who were more

fortunate in being able to buy the same commodity in carloads, while it is quite unusual to transport corn and other coarse grain in small lots, it being the usual custom to transport these commodities in full carloads."

This answer having been sent to the complainants, reply was received as follows: "In answer, we would say that if this railroad company is willing to bring differences in the rate charged in ton lots and car lots on flour and feed nearer together, in order that small dealers in these commodities can live, why should they try to drive the small dealer in corn out of business by obliging him to pay twenty-six cents per hundred, while his more fortunate neighbor, who buys in car lots, pays but twelve cents per hundred. This railroad company is the only one running out from the city that makes such a difference, and their charges are much higher than other companies would be; we pay but four cents per hundred and five cents per hundred on ton lots of corn by the Delaware, Lackawanna and Western, and Ontario and Western for carrying the same distance."

While complaint is made indirectly and in a general way against what purports to be the excessive charges of the Rome, Watertown and Ogdensburgh Railroad Company, the specific cause seems to be in the discrimination in transporting ton lots of feed and ground corn as compared with corn unground.

The Board, therefore, confines itself to the particular cause of complaint. The Rome, Watertown and Ogdensburgh Railroad Company having made a precedent for a reduction in certain instances on small lots of flour and feed and ground corn, the Board is unable to understand why its interests would not as well be subserved in making a like reduction on similar lots of corn unground; certainly, the Board is unable to see that it can work to their disadvantage in the one instance more than in the other.

RECOMMENDATION.

The Board recommends that the Rome, Watertown and Ogdensburgh Railroad Company reduce their tariff on corn, unground, in small lots, to the same rate charged for the transportation of similar lots of flour, feed and ground corn, viz.: twelve and one-half cents per hundred.

VI.

IN THE MATTER OF THE COMPLAINT OF THE WATERTOWN NATIONAL BANK, THE NATIONAL UNION BANK, AND THE NATIONAL BANK AND LOAN COMPANY, AND OTHERS *v.* THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY, AND THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

October 30, 1888.

This complaint, dated the 13th day of July, 1888, by James A. Ward, Esq., counsel, states that the Watertown National Bank, the National Union Bank of Watertown, and the National Bank and Loan Company of Watertown, complain against the Rome, Watertown and

Ogdensburgh Railroad Company, and the New York Central and Hudson River Railroad Company, and allege the following facts on information and belief:

That the petitioners are banking corporations organized under the national banking system, and are located and doing business in the city of Watertown, Jefferson county; that the city of Watertown has a population of about 15,000 inhabitants; that it is a manufacturing city and has several large industries; that a large business is conducted there through the mails; that the products of the manufacturing establishments are sold all over the United States, and the remittances in payment thereof are mostly made through the mails; checks and drafts are mostly all deposited in the banks of said city; and all the cheese sold from Jefferson county is sold in the Watertown board of trade; that the financial transactions connected with such cheese sales are mainly transacted through the Watertown banks; that since the month of April, 1886, the Rome, Watertown and Ogdensburgh Railroad Company has had control, under lease, of the Utica and Black River railroad, and the Carthage, Watertown and Sackett's Harbor railroad, which, with its own line, are the only railway lines entering Jefferson county.

That for several years previous to the consolidation of the Utica and Black River railroad with the Rome, Watertown and Ogdensburgh railroad, trains were run on said railroads so that the mail from New York and the west reached Watertown between 7 and 9 o'clock in the forenoon; "that at one period the mail reached Watertown at about 6 o'clock A. M.;" that on account of some disagreement, as your petitioners are informed and believe, between the management of the New York Central railroad and the Rome, Watertown and Ogdensburgh railroad, the sleeping coach which takes Watertown passengers is purposely delayed in New York; that the officers of the Rome, Watertown and Ogdensburgh railroad, as your petitioners are informed and believe, made no endeavor to accommodate the people of Northern New York and especially of Watertown; that, as your petitioners are informed and believe, the Watertown sleeper could be taken on the train that leaves New York at 6 P. M. and reaches Utica at 12.30 A. M.

The petitioners then further state, which is the *gravamen* of the complaint, that the mail from New York reaches Utica at 4.14 A. M., where it is delayed until 7.05 A. M., and the mail from the west reaches Syracuse at 2.15 A. M., where it is delayed until 7.15 A. M.; that the mail trains that take this mail to Watertown via the Rome, Watertown and Ogdensburgh and the Utica and Black River railroads, now reach Watertown at 10.15 A. M. and 10.55 A. M., respectively; that the mail is distributed about 12 o'clock; that the petitioners are informed and believe that the New York Central and Hudson River Railroad Company and the Rome, Watertown and Ogdensburgh Railroad Company can so arrange the running of their trains without any inconvenience to said companies that the mail trains can reach Watertown at between 6 and 8 o'clock A. M.; that the present arrangement is very detrimental and inconvenient to the business interests of the city of Watertown; that it forces the banking transactions each day into the afternoon.

The petitioners then request, "that the Board of Railroad Commissioners investigate the arrangement between the New York Central and Hudson River Railroad Company and the Rome, Watertown and Ogdensburgh Railroad Company, and make such recommendations in the premises as are just and proper."

A copy of this petition was sent to the New York Central and Hudson River Railroad Company, and to the Rome, Watertown and Ogdensburgh Railroad Company.

The New York Central and Hudson River Railroad Company, through its first vice-president, C. C. Clarke, Esq., answers that the bulk of the mail matter from New York city for Northern New York, leaves the Grand Central station by special mail at 9 p. m.; that this train delivers the mail to the Rome, Watertown and Ogdensburgh Railroad Company, at Utica at 4.14 a. m.; that this mail service has remained unchanged, so far as the New York Central and Hudson River Railroad Company is concerned, for several years.

With respect to the sleeping car service, Mr. Clarke informs the Board that two sleeping cars leave the Grand Central station, New York city, daily at 6 p. m., and are delivered to the Rome, Watertown and Ogdensburgh Railroad Company at 12.30 a. m., at Utica. He states that he would be very glad to have one of these cars pass through Watertown if the management of the connecting line finds it feasible to so arrange.

Inasmuch as these two sleepers are only intended for summer business, and the trains connecting therewith on the Rome, Watertown and Ogdensburgh road have been taken off, the Board will not consider that matter further.

So far as the service of the New York Central mails is concerned, the answer of the road appears to be entirely satisfactory, and the Board will hereinafter consider the propriety of the Rome, Watertown and Ogdensburgh railroad changing its time-table, so as to not permit so long a delay between the arrival of the mail at Utica and the departure of the train on the Utica branch of the Rome, Watertown and Ogdensburgh road.

The Rome, Watertown and Ogdensburgh railroad, through its vice-president, Charles Parsons, Jr., Esq., answered the complaint as follows:

"First. The New York Central and Hudson River railroad train leaving New York at 6 o'clock p. m., arrives at Utica at 12.20 a. m., and does not stop at Rome. The New York Central and Hudson River railroad train leaving New York at 9 p. m., arrives at Utica at 4.14 a. m., passes Rome at 4.35 a. m., but does not stop. The New York Central and Hudson River railroad train leaving New York at 11.30 p. m., reaches Utica at 7.05 a. m., Rome at 7.30 a. m. It is obvious that any train that we may run to connect with either of the first two trains mentioned, must be either merely a mail train or a train run for special through business; such a train could not expect to do any local business. There is no such special through business on the line of the Rome, Watertown and Ogdensburgh railroad to warrant the running of a train therefor, except during a few months in the summer, during the season of tourists' travel. During those months we run a train from Utica, connecting with the train leaving New York at 6 p. m., and hauling two sleepers from New York,

one destined to Clayton, for the St. Lawrence river business, and the other to Paul Smith's, for Adirondack business, but it is only during the summer months that the company is warranted in running a train for such travel. It follows, therefore, that any train which we run making a connection with the first two New York Central trains spoken of, must be run as a mail train. This company certainly can not afford to run a train for the purpose of carrying the mail alone, unless it receives compensation therefor. Further, it is necessary for this company to run a train from Utica and Rome to connect with the New York Central and Hudson River railroad train leaving New York at 11.30 p. m., in order to provide for its local business. We most certainly desire to aid the distribution of the mails in Northern New York, as much as is possible, and the question would be solved if the Post-Office Department would provide in our case, as it already does in some cases, extra compensation for a special mail train, as is allowed to the New York Central and Hudson River Railroad Company, for running the very train in question, leaving New York at 9 p. m. This matter has been thoroughly considered by this company. We have realized the great inconvenience it has caused, but can only come to the conclusion that the only way in which it can be remedied is by a special mail train, and that such train can not be run by this company without compensation therefor. I can only add that I think the patrons of this company's railroad are much better satisfied to have the mails suffer an annoying delay, rather than to have to reach Rome or Utica in the morning after our trains had left, and be obliged to remain in Utica or Rome until our noon trains start.

"*Second.* There is no disagreement between this company and the New York Central and Hudson River Railroad Company about the sleeping coach which takes Watertown passengers; nor is any sleeping coach purposely delayed in New York."

Mr. Parsons then goes on to say, that the company does not run a train to connect with the train leaving New York at 6 o'clock p. m., except in the summer time, as hereinbefore mentioned. He also expresses surprise at the statement contained in the complaint, "that the officers of the Rome, Watertown and Ogdensburgh Railroad Company have made no endeavor to accommodate the people of Northern New York and especially Watertown." He states that the company are now running three trains each way between Utica and Watertown, the same number between Rome and Watertown, and four trains each way between Syracuse and Watertown.

After due notice to the parties interested, a public hearing was held at Watertown before Commissioner Rickard on August 24, 1888. The complainants were numerously represented. The Rome, Watertown and Ogdensburgh Railroad Company was represented by Theodore Butterfield, general passenger agent; Master of Transportation Carrier, and E. B. Wynn, Esq., counsel. The New York Central and Hudson River Railroad Company was represented by Henry Monett, general passenger agent. Considerable discussion ensued and expression of views. The subject was adjourned, however, to be taken up before the whole Board.

A public hearing was given before the full Board at Albany on the twenty-fourth of September, after due notice to the parties in interest,

the hope being to bring together the counsel of the complainants and the authorities of the road, with the view of devising a new time-table which would be satisfactory to all concerned.

Mr. James A. Ward, representing the complainants, appeared thereat, but no one appeared to represent the Rome, Watertown and Ogdensburgh Railroad Company, although due notice of the hearing had been sent and received.

An oral argument was submitted by Mr. Ward, and subsequently a brief filed with the Board.

Notice of the hearing having taken place was given to Mr. Parsons, the president of the road, and a desire expressed to know if he had anything further to say than what had already been submitted.

In the meantime petitions very numerous signed from Watertown, Ogdensburgh and Gouverneur were lodged with the Board in the following words: "The undersigned hereby petition your honorable body that you investigate the matter of the delay in the delivery of the United States mail by the Rome, Watertown and Ogdensburgh railroad, throughout Northern New York, and especially in the city of Watertown (Ogdensburgh and Gouverneur), * * * * and we call the attention of the Board to the fact that the passenger and mail trains were formerly run over this road at much earlier hours in the morning. The present arrangement is of much inconvenience to the people of Watertown (Ogdensburgh, etc.), and to the people doing business in this vicinity."

These petitions are signed by the leading business men, bankers, merchants, manufacturers, farmers, and so on, of the respective towns. The Watertown petition contains 430 names, the Ogdensburgh 188, and the Gouverneur forty-four.

In response to the last notice sent to Mr. Parsons, accompanying a copy of the brief submitted by Mr. Ward, a further answer was transmitted to the Board by Mr. Charles Parsons, Jr., vice-president of the company.

In the brief submitted by Mr. Ward he goes over the ground of the complaint again in great detail. The substance is the same, however, as hereinbefore given.

Mr. Ward furthermore calls attention to the inconvenience arising from the mail from the west not being delivered at Watertown as early as the merchants and banks there desire. Inasmuch, however, as the arrival of the mail from the west did not appear at either of the hearings to be a matter causing serious inconvenience to the complainants, the Board will not further consider it at present, but restricts its attention more particularly to the complaint with regard to the time of the arrival of the mail from the east.

Mr. Ward further claims, that although the schedule time of the arrival of the train carrying the mail at Watertown is 10.55 A. M., it is very frequently late. This he accounts for by stating that the train with which it connects over the New York Central road, viz.: the 11.30 P. M. train from New York, is run in two sections; that the second section is frequently considerably behind time, and that consequently the 7.20 train on the Utica branch of the Rome, Watertown and Ogdensburgh, is late in leaving. He calls attention to the fact that when this train is late on Saturday and the mail is not delivered

until 12 o'clock, or a little thereafter, in consequence of the Saturday half-holiday all transactions are postponed until Monday; a serious cause of complaint. He sums up the wishes of the complainants in the sentence, "That the people of Northern New York desire that the Board of Railroad Commissioners recommend that the Rome, Watertown and Ogdensburgh Railroad Company make up a train at Rome or Utica to take mail which comes both from the east and from the west over the Central, immediately upon its arrival, and carry it directly to Watertown and Ogdensburgh."

In the brief submitted by Mr. Charles Parsons, Jr., vice-president of the Rome, Watertown and Ogdensburgh road, in answer to that of Mr. Ward, he first demurs to the jurisdiction of the Board upon grounds as follows :

That there are two statutes upon the matter of carrying the mails, one, section 17 of chapter 215 of the Laws of 1846, which is to the effect that every railroad company "upon being thereto required by the Postmaster-General of the United States," shall enter into a contract in the usual form for transporting the United States mails for a compensation not exceeding that provided by act of Congress, approved March the 3d, 1845. The second statute, he states, is found in section 34 of the General Railroad Act, which provides that any railroad corporation shall, "when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively." This statute further provides, in case of any disagreement as to the rate of transportation, that it shall be lawful for the appointment of commissioners to determine the prices, terms and conditions of said mail transportation. Mr. Parsons calls the attention of the Board to the fact that by both of these statutes the condition precedent is some action by the Postmaster-General of the United States, and that his company claims that, until the Postmaster-General of the United States takes some action toward the compelling of this company to enter into a contract with it, or makes some claim that this company does not agree as to the rate of transportation, this Board has no jurisdiction whatever in the matter of the transportation of the United States mail. He furthermore particularly calls the attention of the Board to the last statute quoted, being section 34 of the General Railroad Act, which distinctly states such price as is to be agreed upon by commissioners appointed by the government, is for "*carrying said mails in regular passenger trains.*" Also, to the last clause of the said section, which distinctly provides, if it shall be required that the mail be carried at other hours than the regular passenger trains, or at higher speed, then and in such case, "*the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid.*" Mr. Parsons then states that the Postmaster-General of the United States has never taken any action to compel the Rome, Watertown and Ogdensburgh road to run an extra train.

Second. Mr. Parsons claims that there has been "a great deal of nonsense" stated at the hearing about the action of the Rome, Watertown and Ogdensburgh Railroad Company in delaying the United States mail since its consolidation with the Utica and Black River Railroad Company. He claims that the fact of the case is that the

same schedule of time that was in existence prior to said lease, was continued for a long time after it, and until the New York Central and Hudson River Railroad Company changed its schedule for their train No. 9, which formerly left New York at 9.15 p. m., to 11.30 p. m.; that this change alone was the cause of his trains leaving Utica and Rome at a later hour in the morning, and the consequent later arrival at Watertown and other points on his road. He says: "The simple fact is that this company has run this train to connect with the trains of the New York Central and Hudson River railroad at Utica and Rome which most conveniently carry the passengers from New York city and other places to those points and at the same time accommodate local business." He states that the suggestion of the Chairman of this Board, contained in the minutes of the last hearing before the Board, was that the Rome, Watertown and Ogdensburgh either run a special mail train in the early morning to connect with the mail train out of New York (reaching Utica at 4.14 a. m.), or that it start its trains from Utica and Rome at 5 o'clock in the morning, as before, when it connected with the train leaving New York at 9.15.

He states that the objection to the first of these suggestions is, that this company cannot afford to run a special mail train, as "was clearly stated in his previous answer;" that the objection to the second is, it renders the time consumed by passengers from New York city in reaching points upon the Rome, Watertown and Ogdensburgh road much longer than is necessary, inasmuch as they would have to wait for the noon train before going north, or that it would compel them, in case they left New York at 6.30 p. m., to lie on the track in a sleeper at Utica or Rome for two hours or more, until 5 o'clock a. m.

He then states that two years ago, owing to the fact that the train upon the New York Central and Hudson River railroad upon which he wished to have his sleeper from Northern New York run to New York city, was very heavy, and to the additional fact that the Rome, Watertown and Ogdensburgh trains were obliged to get to Rome and Utica in time to connect with the mail train, a lay over of an hour was necessary at Utica, during which time the Rome, Watertown and Ogdensburgh sleeper lay there until a New York Central train which could haul it came along; that the result was that the Rome, Watertown and Ogdensburgh Company was "deluged with complaints" and threats of application to this Board to compel it to run its train in such a way that the sleeping car would not lie at Utica in the night in full hearing of the numerous freight and passenger trains of the New York Central and Hudson River railroad, which passed at intervals of but a few minutes; and he states that he has no hesitation in saying that it would result in another deluge of complaints even stronger than before, if the Rome, Watertown and Ogdensburgh should compel its passengers to lie two hours where it would be impossible for them to sleep owing to the frequent trains passing and the sudden transition from the noise of the trains to quiet.

Third. Mr. Parsons, in answer to the suggestion that train No. 7, leaving Utica at 12.15 p. m., be put back to 9 o'clock for the purpose of enabling passengers who do not wish to start in the middle of the night from Utica or Rome, or to transfer at that time, to take a train at a more seasonable hour without waiting until 12.15 p. m., states

that this suggestion is not practicable, for the reason that it would bring still more bitter complaints against the company in the delay of mails and morning newspapers; that this train, which now leaves at 12.15 p. m., carries the morning mail and the morning newspapers from New York city, which are brought up from that city on the train leaving at 4.30 a. m., reaching Utica at 11.40 a. m.

Fourth. Mr. Parsons states that his answer to the complaint of the banks of Watertown applies to the petitions of the citizens of Watertown and of all other points on the Rome, Watertown and Ogdensburgh road north of Watertown, but of course that the company realizes that the late arrival of the mails is a greater disadvantage to Ogdensburgh and points that are more distant from Utica or Rome than Watertown. He then calls the Board's attention to the fact that Mr. Lewis Hasbrouck, on behalf of the citizens of Ogdensburgh, stated that mails could not reach Ogdensburgh by way of the Ogdensburgh and Lake Champlain railroad for the reason that a connection could not be made at Rouse's Point with the Delaware and Hudson.

As this matter is not properly in the case, no complaint having been preferred either against the Ogdensburgh and Lake Champlain or the Delaware and Hudson Canal Company with regard to it, the Board will not further consider it.

Fifth. Mr. Parsons denies the statement of the attorney for the complainants, that it was admitted by the railroad company, in the hearing given before Commissioner Rickard at Watertown, that the trains carrying the New York mail and the western mail to Watertown had been for the last year uniformly late. He states that, with the exception of the winter, when the trains are of course frequently delayed by snow, he does not believe any fault can be found with the train service from Rome or Utica to Watertown, and that any delays which may have occurred are due to the lateness in the arrival of the trains of the New York Central and Hudson River Railroad Company for which his trains wait.

Sixth. Mr. Parsons again repeats that there is extra compensation allowed to the New York Central and Hudson River Railroad Company for running the train leaving New York at 9 p. m.; and describes the manner in which such compensation is made.

The last and most important offers made by Mr. Parsons are as follows:

"I beg to say in behalf of this company, that if the New York Central and Hudson River Railroad Company will haul our sleeper on train No. 11, leaving New York at 9 o'clock, p. m., we will run our trains out of Utica and Rome at about 5 o'clock, a. m., as by our former schedule; or if the New York Central and Hudson River Railroad Company will run their train No. 9 (which now leaves at 11.30) at 9.15 p. m. as formerly, and take our sleeper upon it, we will return to our former schedule."

Lastly, he says, "This company is ready and willing to run a special mail train at any hour that will be satisfactory, provided either the government, or the complainants, or any parties whatever, will pay the actual, bare cost thereof."

On reading Mr. Parsons' brief the inference would be drawn that no compensation whatever is allowed the Rome, Watertown and Ogdensburgh road for carrying the mails. The Board presumes,

however, that Mr. Parsons does not mean to convey such an impression, inasmuch as it is informed that a large compensation is paid the Rome, Watertown and Ogdensburgh Company for carrying the mails in regular passenger trains, but that his argument is with regard to a compensation for an *extra* mail service.

With regard to the demurrer of the railroad company to the jurisdiction of the Board in reference to *positively recommending a special train* upon the Utica division of the Rome, Watertown and Ogdensburgh road to carry the mails, the Board is inclined to agree with Mr. Parsons.

Inasmuch as such special train would have to be a matter of agreement between the railroad company and the Postmaster-General of the United States, and inasmuch as the Board has no possible authority over the latter, a positive recommendation would be obviously improper. The Board, however, might very properly extend its good offices in the way of calling the attention of the Postmaster-General to the subject, and, if it deemed that the circumstances justified it, request that the Postmaster-General allow the Rome, Watertown and Ogdensburgh extra compensation for a special train. It feels precluded from taking this course, however, for the reason that such appeal has already been made by Mr. Ward, counsel of the complainants, and in answer thereto, Mr. W. L. Bancroft, general superintendent of the railway mail service of the United States, says: "The weight of mail on that route will not justify this department in contracting for such service, but if it did, there are no means available to pay for it. A comparison of that route with any of the great trunk lines where special service is obtained, will not, I think, be insisted upon either by yourself or Mr. Parsons."

It is pertinent, furthermore, to state that in this letter Mr. Bancroft states to Mr. Ward that his (Mr. Ward's) complaint "is well founded, because the mails from New York arrive at Utica at 4.14 a. m., and are held there until 7.20 a. m., awaiting the departure of the train of the Rome, Watertown and Ogdensburgh railroad, thus occasioning a delay which makes the Watertown mail arrive at too late an hour to admit of reply to business correspondence on the same day."

CONCLUSIONS.

After a careful consideration of the complaint and of the suggestions to remedy the grievances, the Board finds that the delay at Utica from 4.14 a. m., the time of the arrival of the mail train on the New York Central and Hudson River railroad, until 7.20 a. m., the time of the departure of the train on the Utica branch of the Rome, Watertown and Ogdensburgh road, is a serious and unnecessary grievance.

It appears that for many years previous to the consolidation of the Utica and Black River road with the Rome, Watertown and Ogdensburgh road, a train left Utica at or about 5 o'clock in the morning, reaching Watertown at or about 9 o'clock. The Rome, Watertown and Ogdensburgh road state that this time-table would still be continued were it not for the fact that the train which formerly left New York at 9.15 p. m., viz., No. 9, now leaves at 11.30 p. m., and does not reach Utica until five minutes past 7 in the morning; that this train

has attached to it a sleeping car for passengers on the Utica branch of the Rome, Watertown and Ogdensburgh road.

The Board sees no reason why this sleeping car should not be attached to train No. 29, which leaves New York at 6.30 p. m. and reaches Utica at 2.55 a. m. It is true that passengers destined for points on the Utica branch of the Rome, Watertown and Ogdensburgh road would be obliged to wait some two hours before the departure of the train on the Rome, Watertown and Ogdensburgh, did it leave at 5 o'clock. This would not be a very serious hardship, however, to the public, inasmuch as Mr. Butterfield, the general passenger agent of the Rome, Watertown and Ogdensburgh road, testified at the hearing at Watertown, that an average of but two and one-seventh passengers came upon this car. It would seem far better that this very small average of passengers should be somewhat incommoded by the sound of passing trains during those two hours, than that the extensive region under consideration should be delayed every day in the receipt of its mails.

Mr. Parsons, it will be observed, expresses a willingness to start the Rome, Watertown and Ogdensburgh trains from both Utica and Rome at about 5 o'clock in the morning, if the New York Central and Hudson River Railroad Company will haul their sleeper on the special mail train, No. 11, leaving New York at 9 o'clock p. m., or if the New York Central and Hudson River railroad will run their train No. 9, now leaving at 11.30, at 9.15 as formerly. The Board has submitted this proposition to the New York Central and Hudson River Railroad Company, who declined to haul the sleeper on train 11, for the reason that this train is a special mail train, and run for that object exclusively. The Board deems the reason for declining is good and sufficient. While it is true that a Rochester coach has been attached thereto, nothing appeared at the hearing to account for this exception being made, and it is evident that to attach any more coaches would delay the train to an extent to seriously impair its usefulness.

Nor does the Board deem that it would be advisable to start the train No. 9, leaving New York at 11.30, at 9.15, as a very large number of people desire to leave New York at that late hour in order to avail themselves of the evening in New York, whether for business or pleasure.

The Board does not see any reason, however, as hereinbefore stated, why the sleeper should not be attached to the train leaving New York at 6.30 p. m., viz., No. 29, and the New York Central and Hudson River Railroad Company has expressed its willingness to haul the sleeper on this train. This seems to be the wisest and best solution of the question from every point of view. Furthermore, the Board can see no reason why the management of the Rome, Watertown and Ogdensburgh road should be embarrassed by having a train leave Utica at or about 5 o'clock. As the Board understands it, a train has to be run over the entire line of what was the Utica and Black River road to Ogdensburgh, and can, therefore, run independently of a train started at Rome, which also runs to Ogdensburgh, but over an entirely different road. It can, therefore, see no reason why a train should not start from Utica at 5 o'clock a. m., and at the same

time, a train start from Rome as heretofore, at 7.35 A. M. In fact, from what evidence there is before the Board at present, it would appear that the trains thus started would better accommodate the public than if both started at 5 o'clock in the morning.

RECOMMENDATION.

The Board of Railroad Commissioners recommends that on and after November 15, 1888, the Rome, Watertown and Ogdensburgh Railroad Company shall start the mail and passenger train now known as No. 201, from Utica at or about 5 o'clock A. M., reaching Watertown at or about 8.35 A. M., instead of such train leaving Utica at 7.20 A. M., reaching Watertown at 10.55 A. M.

Secondly, The Board recommends to the New York Central and Hudson River Railroad Company, and to the Rome, Watertown and Ogdensburgh Railroad Company, that the sleeping car destined for Utica and points on the Utica branch of the Rome, Watertown and Ogdensburgh railroad, now attached to train No. 9, leaving New York at 11.30 P. M., be, on and after November 15, 1888, attached to train No. 29, leaving New York at 6.30 P. M.

November 26, 1888.

This case was decided by the Board October the 30th, 1888, and the following recommendation made, to wit:

RECOMMENDATION.

The Board of Railroad Commissioners recommends that on and after November 15, 1888, the Rome, Watertown and Ogdensburgh Railroad Company shall start the mail and passenger train now known as No. 201, from Utica at or about 5 o'clock A. M., reaching Watertown at or about 8.35 A. M., instead of such train leaving Utica at 7.20 A. M., reaching Watertown at 10.55 A. M.

Secondly, The Board recommends to the New York Central and Hudson River Railroad Company, and to the Rome, Watertown and Ogdensburgh Railroad Company, that the sleeping car destined for Utica and points on the Utica branch of the Rome, Watertown and Ogdensburgh railroad, now attached to train No. 9, leaving New York at 11.30 P. M., be, on and after November 15, 1888, attached to train No. 29, leaving New York at 6.30 P. M.

Subsequently, under date of November 13, 1888, a communication was received from Charles Parsons, Jr., vice-president of the Rome, Watertown and Ogdensburgh Company, alleging that certain inconveniences would be suffered by travelers on the Rome, Watertown and Ogdensburgh system of railroads by the proposed change.

The first objection was as follows:

"It will necessitate either our running a special train from Philadelphia to all points beyond it, except Ogdensburgh, on the Utica and Black River division of our road, to leave Philadelphia upon the

arrival of the train which will leave Rome at 7.35 A. M.; or it will compel all passengers who leave the train, leaving Rome at 7.35 A. M., at Philadelphia to go to points on the Utica and Black River railroad, to wait at Philadelphia from 10.55 A. M. until 4.25 P. M., at which latter hour the next train, leaving Utica at 12.40 P. M., arrives at Philadelphia."

There appears to be some force in this objection. The Board is not informed what the average number of passengers leaving Rome for points on the Utica and Black River division beyond Philadelphia is, but, assuming that there is a considerable number, the difficulty could be overcome by the trains leaving Rome and Syracuse at the same hours that they have for many years heretofore by the old time card.

The second objection in Mr. Parsons' letter of November thirteenth was as follows:

"It will compel all passengers taking the train which you propose shall leave Utica at 5 o'clock in the morning, who may wish to go to points on our middle division, except Ogdensburgh, to lie over at Philadelphia until the arrival of the train from Rome at 10.55 A. M., or we should be obliged to run a special train leaving Philadelphia upon the arrival of train 201 and running over the old Rome, Watertown and Ogdensburgh line."

This objection can also be met by train No. 1 leaving Rome at about the same hour in the morning that train 201 leaves Utica.

The Board, therefore, repeats its recommendation of October thirtieth, and adds thereto the following additional

RECOMMENDATION.

That on and after Monday, December 10, 1888, the Rome, Watertown and Ogdensburgh railroad shall start the train now known as No. 1 from Rome shortly after 5 o'clock A. M., and from Syracuse at such hour as will enable connections to be made at Richland with the train from Rome, and also at Philadelphia and other intersecting points with the train No. 201 leaving Utica at or about 5 A. M.

VII.

BOARD OF EDUCATION OF THE TOWNS OF GHENT AND CHATHAM V. THE LEBANON SPRINGS RAILROAD COMPANY.

November 12, 1888.

The complaint alleged that the tracks of the Lebanon Springs Railroad Company crossed Kinderhook street and Park row in the village of Chatham, the two crossings being only a few rods apart, said streets intersecting at right angles, and that the company ran its trains over those crossings at certain hours of the day when hundreds of children passed over the tracks on their way to and from school; that the employees of said railroad were in the habit of "kicking" cars at such times over said crossings, at which no flagman

was stationed. The complaint further alleged that the board of trustees had requested the village trustees to take steps to secure a flagman at that point; but though the village trustees had done what lay in their power, no result had followed and, therefore, complaint was made to this Board with the petition that the company be compelled to station a flagman at the crossings, and that the practice of making flying switches or "kicking" cars be discontinued.

The company replied five days after the complaint had been forwarded to it, that a flagman had been stationed at the point complained of. The reply to the company was by a number of affidavits setting forth numerous days and hours when no flagman was visible and one asserting that an employee was occasionally sent to the crossing with a flag, but that it was clearly an evasion of the understanding given this Board.

To this, while admitting the flagging had not been properly done at the time of the complaint, the company asserted positively, that since the communication of this Board had been received, every train, engine and car going over the crossing had been properly flagged, if not always by the same person.

This was denied upon the part of the complainants, in that the flagging was irregularly done. After further correspondence, complaint ceased, and the Board assumes the flagging is now satisfactory.

VIII.

BOARD OF TRUSTEES, VILLAGE OF AKRON, v. THE WEST SHORE RAILWAY COMPANY.

December 2, 1888.

The allegation was that the crossings of the West Shore railroad at Cedar street and Jackson street, in the village of Akron, were dangerous. The company replied that the crossings were in full view of approaching trains from both directions, and that the same principle that would put flagmen at them, would require the same thing at every crossing on the line, a greater burden than the road could bear. In reply the trustees insisted that at the Cedar street crossing, trains from the east were obscured by buildings and standing cars, and that at the Jackson street crossing, trains from the east were hidden by a cut of ten feet, a barn and an orchard, and the trustees further alleged that under the previous management flagmen had always been maintained at these crossings. Subsequently the trustees withdrew the complaint.

IX.

B. R. HEYWARD v. THE WEST SHORE RAILROAD COMPANY.

December 12, 1888.

This complaint, which was of date of December 6, 1888, set forth that ever since the "cave-in" of the tunnel at Cornwall, through tickets, from and to New York city, had been issued without any information being given, even when asked that it was impossible to reach the destination, beyond the tunnel, on schedule time; that passengers were subjected to delays of from one to three hours, and compelled to change trains several times.

The general manager of the West Shore sets forth that in the absence of a knowledge of the dates when the complainant met with his delays complained of, it was impossible for him to make proper answer, but he presumed it was at a time when a severe storm, on the 24th and 25th of November, 1888, had prevented the use of the transfer boats around the tunnel, and when a serious washout of an embankment, near Tompkins' Cove, had seriously embarrassed the movement of trains and necessitated their consolidation.

The complainant replied that it was not on the occasion suggested by Mr. Layng, but a month earlier, and that his experience was the experience of all travelers every day since the "cave-in."

The Board recommended that notice should be given of the delay of trains to through passengers, in consequence of the "cave-in" at West Point tunnel. Such notice was given until the tunnel was restored and traffic through it resumed.

X.

WM. M. GILES AND C. M. BOWLES v. THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY.

December 12, 1888.

These complaints, made in November, 1888, were to the effect that by reason of a change in the time-table of the passenger trains, in which three trains were sent out with one minute headway, delays were occasioned in running to Mount Vernon of from thirty to sixty minutes, in addition to the regular running time which was twenty-eight minutes, thus interfering with business arrangements and to the great inconvenience of commuters.

The company in reply admitted the justice of the complaint, but insisted that the delays were temporarily unavoidable, since the business of the company and the others using the depot and yard in New York city, had outgrown its capacity and that improvements such as four-tracking the Harlem road were in progress, which, when completed, would avoid the delays. The complainants, however, were not satisfied with this reply and accordingly the Board sent its inspector to make a careful examination of the method of dispatching

trains and reporting the same to the Board. This action resulted in the suggestion of certain changes in the time and method of sending out trains, which obviated the delays, and in December one of the complainants informed the Board that there had "been a decided general improvement in the running time." The report of the inspector, upon which the action of the Board was taken, is attached.

To the Honorable the Board of Railroad Commissioners:

GENTLEMEN.—As instructed by the Board November 26, 1888, your inspector was in New York December third and began the investigation of the time-tables of the New York, New Haven and Hartford Railroad Company, and the operating of the trains of that company on the tracks of the New York and Harlem railroad—all in the matter of complaints of Mr. William M. Giles, of Mount Vernon, and Mr. C. M. Bowles, of New Rochelle, for undue detention in transport as commuters, between the Grand Central depot in New York and their respective places of residence.

Among other things, the instructions of your honorable Board were, "report what modification in the time-table you would suggest." It appears that prior to June 24, 1888, the method of operating trains of the New York, New Haven and Hartford railroad was to start them out of New York singly (except when the volume of train required it to be divided into sections) and at any time within the hour. The greatest rush of travel out of New York is between the hours of 3 and 6 p.m. During the past few years the passenger traffic has so largely increased that the waiting-room accommodations used by the company in the Grand Central depot, have become insufficient in space, especially on Saturday, a holiday or when a rain storm prevails. The holding of passengers away from the cars until within ten minutes of train time, has crowded the waiting-room as thickly as people could stand, and extended out on to the sidewalk on Forty-second street. This has caused much ill-feeling and complaint among the patrons of the road, besides being exceedingly disagreeable for ladies and children. The long interval between trains stopping at different points, also tended to disconcert the public, and in the crowded waiting-room it was difficult to select the passengers for their several trains.

On the 24th of June, 1888, the company began a new schedule, starting the trains on the even hour and in schools, including all stops for which were especial trains; as between Williams Bridge and Port Chester on one train in each group, all the stops would be made, another train in each school, a few stops would be made and still another train in same group, would not stop until Port Chester had been passed. One minute headway was given between the several trains of these schools, which was found practically too short a space of time, as the blocks are of longer duration at an average train speed, and delays and annoyances were constantly recurring. A train in a school would reach Harlem river and be blocked by a train of the Central or Harlem railroad getting on the double track crossing Harlem river bridge and thus block all trains back into the Grand Central station.

No account is taken in this report of the great hindrance to the many thousands of people which are delayed by the opening of the draw-bridge at Harlem river, as no remedy other than action of the United States government will reach the annoyance. It will, however, be of possible interest to your Honorable Board to state the fact that on a day in the latter part of November, a delay of thirty-five minutes to all trains into the city on that morning was caused by the open draw and during the entire day it was impossible to get the trains in and out on schedule time. The least disturbance of one train frequently affects many others. These draw-bridge detentions were not considered by your inspector, only those occasioned by the blocking or errors, as they appeared to be in dovetailing, so to speak, of the trains of the three roads as they leave the four-track road at end of tunnel and pass on the Harlem double (interlaced) tracks to Mott Haven junction and to Woodlawn junction.

July 22, 1888 a new schedule with two minutes headway between trains of same group went into effect. The frequency of through trains on all

three roads and the suburban trains of the Harlem and Hudson River roads gave but little time to dispatch three or four trains in continuity on the New Haven road without a modification of time-tables of the two first roads, especially in the time of departure of the many suburban trains of these roads. Changes were made with the view of interspersing the trains of all the roads and give more prompt service.

November 25, 1888, the New York, New Haven and Hartford Railroad Company issued its last time schedule, and the Harlem road a second edition of its time card of November twenty-two. These are the time-tables now in use and into the workings of which your inspector gave his attention, and which are subsequent to the date of complaints under consideration. The working of these last time cards while not in actual practice as perfect as desirable they are yet very closely adhered to, and during a week's observation were noted as working fairly well. A detention of ten minutes was the longest observed, and that was in the school of trains between 6.01 and 6.04 P. M., of the New Haven road. Train No. 31 of the Harlem, leaving at 5.12 P. M., is usually heavy and makes all stops. This train is sometimes held in block behind train 60 of the New Haven road leaving at 5.04 P. M. When the block over Harlem river bridge is cleared, train 31 will pull out ahead of trains 62 and 64 of the New Haven road, holding them back. Possibly it would be well to hold 31 in case it is delayed if 62 and 64 are on the block behind, and allow them to pass 31 at Harlem. It will be noticed that all trains of the New Haven road make no stop south of Woodlawn junction where the tracks of the New Haven joins those of the Harlem railroad, excepting thirteen trains stop at Williams Bridge which is quite near Woodlawn junction and where passengers are interchanged between these roads. This leaves thirty-two trains which run out of New York and off the Harlem road before stopping; these are through trains so far as the Harlem tracks are concerned as the other thirteen are nearly so. Hence the trains of the New York and New Haven road should have precedence over all other than through trains over the Central and Harlem roads. The present time-tables are constructed with this idea in view and are working, all things considered, very well indeed. No change can be suggested in these time-tables, only this may properly be presented to the Honorable Board. A suggestion to the several roads in interest, that they use great care and start trains on the moment and that great effort be made, by supplying sufficient power, to move all trains on exact schedule, giving in case of delay through trains precedence over way trains. This will soon lead to suggestions of slight changes in the time cards of each road to the mutual benefit of all. Mr. J. M. Toucey is the general manager of all these roads south of Woodlawn junction and is especially in charge south of Mott Haven junction, and all trains are subject to the blocks which he establishes. The interests of all are equally entertained and effort is made to meet the wishes of the public.

Lately the New Haven company have thrown open the doors leading from waiting-room to trains and by a careful pilotage place the passengers in their proper cars as they arrive for each school of trains. This relieves the pressure on the waiting-rooms and is a decided gratification to the commuters. Train leaving at 6 P. M. will consist of three separate trains but really one train, leaving at 6.03, 6.04 and 6.07. The first section having the longest run starts ahead and so on as the length of clear runs are. Passengers are carefully guided to the section which first stops at their point of debarkation; hence all are accommodated and so much more comfortable it is, to go directly into your car and sit there the few minutes you have to wait, instead of being penned in a crowded waiting-room and the hurry and rush when the doors are thrown open.

To incoming trains there is another source of delay if they are anyway off of schedule time. The Grand Central train-house becomes filled with empty coaches; the sidings at hand are full and then the empty cars are taken back through the tunnel beyond Mott Haven junction, a distance of six miles, to get them out of the way of other incoming trains. In the afternoon these cars are brought back for out-bound trains and this sometimes makes slight delays. Again, between Mott Haven and Woodlawn junction the tracks of the Harlem road are being depressed as they now

are in Fourth Avenue. This work is about six miles in length and when finished (probably in eighteen months) will be a four-track road. These four tracks are to be continued through Mott Haven station connecting with the four tracks north of Harlem bridge, making a four-track road between the Grand Central depot and Woodlawn junction, excepting just where the Harlem bridge is. In the progress of this work during the past summer, obstructions have occurred to the present tracks and a new track has been temporarily laid between Mott Haven junction and Williams Bridge, replacing one of the old tracks which is being dug away to make room for the new depressed roadway. All these things combined have caused delays of trains, but with the improved time card and restoration of a good double track between Williams Bridge and Mott Haven junction, it does seem that trains can and will be promptly moved and with very little hindrance.

Between 4 A. M. and 12 midnight, 116 regular trains go out, and same number enter the Grand Central depot, between that depot and Mott Haven junction. In addition are the many trains of empty cars and movement of empty engines. These all told are going each way once in eight minutes. Of these, thirty-eight trains use the outside tracks, and seventy-eight the inside or main tracks. By completing temporarily the four tracks between the north side of Harlem bridge and Mott Haven junction, the movement of trains could be improved.

Respectfully submitted.

THOMAS W. SPENCER,
Inspector.

ALBANY, N. Y., December 10, 1888.

XI.

WILLIAM A. WADSWORTH v. THE NEW YORK, LAKE ERIE AND WESTERN
RAILROAD COMPANY.

December 15, 1888.

The complainant on July 24, 1888, set forth that he was the owner of a number of farms in Livingston county and alleged that he was greatly injured in the failure of the company to maintain the fences on the line of its road; to erect and maintain suitable farm crossings, and that owing to the defective conditions of the smoke-stacks of the locomotive engines, much damage had been sustained by fire communicated by flying sparks.

To this the company, by its first vice-president, Mr. S. M. Felton, Jr., replied that out of the seven miles of fencing through the property of Mr. Wadsworth, one mile was entirely gone; that one farm crossing and one set of gates were out of repair; and that the allegation as to the defective condition of the engines being out of repair, Mr. Wadsworth had given the company several months in which to make investigation and repairs.

A copy of this answer was sent complainant who replied that nothing had been done by the company to remedy the evils complained of, and denied the allegation as to the condition of the fences represented by the company as standing, by giving specifically a long list of breaks in the fences. On November 27, 1888, the company having taken no steps to comply with the statutory requirements, the Board cited the company before it to show cause why it had failed to maintain the

fences along the line of its road as required by section 9, chapter 282, Laws of 1854.

The company applied for a week's postponement of the hearing which was granted. Before the time arrived, Mr. Wadsworth, the complainant, under date of December 15, 1888, withdrew from the proceedings, under an amicable arrangement with the company.

XII.

HON. HAMILTON FISH, JR., IN THE MATTER OF THE BRIDGE OVER CROTON LAKE, ON THE NEW YORK AND NORTHERN RAILROAD.

December 17, 1888.

The Honorable Hamilton Fish, Jr., addressed a communication to the Board, inquiring into the condition of the bridge over Croton lake, on the line of the New York and Northern railroad. The Board instructed its bridge engineer to make an examination of the bridge, which he did on the 17th of December, 1888. A copy of his report to the Board, which was approved and adopted by it, is appended.

To the Honorable Board of Railroad Commissioners, State of New York:

GENTLEMEN.—In accordance with your instructions I have made an examination of the New York and Northern Railway Company's bridge over Croton lake, and have the honor to submit the following report:

This bridge is a single track, deck, iron, Pratt truss structure, consisting of three spans, one of 150 feet and two of 144 feet each, resting at the ends upon masonry abutments and at the two intermediate points of supports upon iron piers forty-two feet high, which in turn are supported by masonry piers in the lake.

Some trouble has been experienced with the abutment at the south end of the bridge. This abutment rises from the level of the lake about forty-two feet to the bridge seat, and the rear portion or back wall extends about twenty-five feet higher to the level of the ties. This back wall is connected with side walls extending backwards about twenty feet. The main portion of the abutment is provided with wing walls forty-eight feet long, and which I call main wing walls, and these in turn are connected with a secondary system of wing walls, as shown. The ends of the main wing walls in this abutment have been strengthened by heavy buttresses, thirteen by fifteen feet in size.

The condition of the abutment is this:

The secondary wing walls are badly broken down. There are some small cracks in the east main wing wall and one in the side extension of the back wall at about the point marked "a," but I do not think that any immediate danger need be apprehended, as the walls between the buttresses show no signs of bulging or other displacement beyond the small cracks noted. The main portion of the abutment underneath the bridge seat appears perfectly sound. This portion has been recently pointed up—I was afterwards informed by the general manager of the road that it was done in July last. No cracks are perceptible in these joints, showing that no change has taken place in this portion of the abutment at least since that time. The buttresses appear to hold the main wing walls in place.

The space between the side extensions of the back wall appears to have been formerly filled with earth, but this has recently been cleared out and the side walls thus relieved of its pressure. The approach to the bridge at this end is now by means of two bays of trestle work, new and strong.

The surface of the embankment near the abutment is covered with rip-rap to prevent the washing away of the sandy soil. The rip-rap is so laid

as to form a gutter to deflect the surface water away from the abutment wall and conduct it down to the foot of the embankment.

The north abutment is similar in construction to the south one, except that it has no buttresses. The wing wall on the west side of this abutment is cracked, but the stones do not appear otherwise to be displaced. There are no signs that the wall is being pushed forward. The main portion of the abutment, the back wall and the east wing wall are perfectly sound.

The masonry piers rise about three feet above the surface of the lake. I was unable to reach these piers, but as far as could be seen from on shore, or judged from the camber of the bridge, the piers are sound and have not settled.

The superstructure is in good condition, well painted, holding its camber and all adjustable parts in order. The strain sheets show it to be capable of safely carrying the traffic which crosses it.

The floor system consists of seven by sixteen inch ties, spaced eight inches apart in the clear, resting upon the upper chords of the trusses which are thirteen feet apart center to center. A few of these ties have been recently put in. The remainder, though several years old, are generally in good condition. Very slight evidences of decay are visible on a few. The bridge is furnished with seven by nine inch guard timbers notched down one inch upon the ties, placed one foot outside of the rails and bolted to every fourth tie. These guard timbers are new. There are also guard rails inside of the main rails.

At each end of the bridge are warning signs requiring the speed of trains to be reduced to five miles per hour in crossing. This rule appears to be observed.

On the whole I see no reason to apprehend any immediate danger from the use of this bridge. In time the wing walls of the abutments would probably break down, causing the failure of the track on the approaches, but the evidences of careful attention on the part of the railroad company are apparent, and as long as this care continues to be exercised, any indications of immediate danger will doubtless be detected at once.

All of which is respectfully submitted.

(Signed.) CHAS. F. STOWELL,
Bridge Engineer.

XIII.

IN THE MATTER OF THE COMPLAINT OF THE OWNERS OF FARMS IN THE VICINITY OF BELMONT, ALLEGANY COUNTY, N. Y. v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

December 18, 1888.

This complaint, signed by fifteen persons and presented by Hon. Hamilton Ward, counsel, was lodged with the Board the 30th of June, 1888.

It alleges that the signers are owners of farms along the line of the New York, Lake Erie and Western railroad; that upon completion of said road the company built the fences on both sides of the track, except in few places; that the company of its own free will, for the last twenty-five or thirty years, has built and maintained these fences without complaint or notice to the land-owners, or in any manner insisting upon any agreement in the deeds on the part of the land-owners to fence; that within the last one, two or three years the fences, through want of repair, have become insufficient to keep animals from the track, and in many places the fences are prostrated, leaving fields exposed

not only from the railroad, but from the highway, subjecting railroad travel to great danger from cattle, horses and other animals constantly straying upon the track; that the company has repaired and maintained pieces of fences at some places, while at others it has neglected to do so, and the portions that it has so neglected are upon the farms of the undersigned and others; that the company now claims that the reason why it does not build the fences upon the lands of the complainants is that in the deeds given by the former owners of the complainants' lands, and, in the instance of Mr. Samuel Cotton, by himself, a covenant existed upon the part of the land-owners and their successors to fence and maintain such fences themselves.

The complainants go on to state that they are informed and believe that the deeds were given as early as 1841; that the considerations expressed in these deeds, if paid at all, were paid in worthless railroad stocks, or the deed was given on some special promise to furnish passes or build depots, or to do some other thing for the land owner; "at all events when the property came to our hands by purchase or descent, we knew nothing of such an agreement; we found the company keeping up the fences and learned they had done so from the start, and believed in good faith that the company were to maintain the fences, and many of us bought our property with that understanding, and we had no notice to the contrary until very recently."

A copy of the complaint was sent to the railroad company in the usual order, and, subsequently, a notice to show cause why the failure upon the part of the company to maintain the fences in accordance with sections 8 and 9 of chapter 252 of the Laws of 1854, should not be presented to the Attorney-General for his consideration and action.

Under date of August first a reply was received in which the company states, that as a result of an investigation made by it, it appeared that all the signers to the complaint were under contract to maintain their own fences, except, perhaps, two; that all the complainants who were bound to do the fencing had received the legal notice required by the statutes of this State.

The communication finishes with the words, "The Board may rest assured that every effort will be made by this company to have the fencing done in accordance with the provisions of the fencing laws of this State, and as soon as possible."

The Board, relying upon this assurance, took no action until October the third, when it addressed a letter to the counsel of the complainants asking information upon the subject. An answer was received, dated October the thirtieth, to the effect that none of the fences had been built.

After some further correspondence, again a notice was served upon the company to appear before the Board on November twenty-seventh and show cause why it had failed to maintain its fences. The hearing at the request of the company was adjourned to the fourth of December. On that date the company was represented by J. A. Buchanan, Esq., counsel, J. M. Finch, general land agent, and J. H. Parsons, superintendent western division.

The same grounds were gone over and the statements made that negotiations were then pending between the complainants and the

railroad company to agree upon some price for maintaining these fences. The company begged that a further adjournment of two weeks might be granted in order to permit these negotiations to be brought to a conclusion, with the understanding that if the negotiations were unsuccessful the final hearing would be held at the office of the Board, in Albany, on Tuesday the eighteenth.

It appears that such negotiations were not brought to a satisfactory conclusion, and on December the eighteenth, Mr. Stevens appeared before the Board, representing the railroad company.

Mr. Stevens informed the Board that suits had been entered by the company to compel a specific performance of the covenants in the original deeds of the land, of which the complainants were grantees, to maintain the fences; that the contention of the company was that such agreements were continuing and that the obligation had not lapsed by reason of the failure of the company to insist upon such performance; that the company had offered to release the adjoining property-holders from the covenant for a consideration of sixty-five cents a rod of fence, but that the complainants with the exception of two had thus far declined the proposition. That there was some question whether the company was subject to the obligations and entitled to the benefits of section 9 of chapter 282 of the Laws of 1854, in consequence of said section providing that a specific sum as compensation for fencing should have been provided, whereas the covenants in the deeds relied upon mentioned no specific sum, the consideration for the land and all other obligations being in one lump sum; that if such section 9 did not apply, the company would have recourse to the general laws providing for the enforcement of the obligations of contracts.

The counsel of the complainants, as hereinbefore stated, has made no personal appearance before the Board since August the sixth, but in a brief submitted November the twenty-sixth, he claims that the land-owners are not obliged to fence the track, but that whether or not, as between the railroad company and the State, it is immaterial; that the statute imposes upon the company the primary duty of fencing and protecting these tracks for the safety of the public; that if the company had any redress upon these land-owners, it is in a position to assert it as soon as the fences are built; that the land-owners are ready to meet any legal question that may arise between them and the company in the courts of justice, and they say, furthermore, that any covenant which may be found in the ancient deeds of land-owners given from thirty to fifty years ago and never enforced or insisted upon by the railroad company until now, can not now be enforced as against the present land-owners, the company having fenced the track without complaint, or notice, or objection all this time down to the present.

CONCLUSIONS.

The Board does not propose to discuss the question as to whether the obligation upon the part of the land owners to fence the tracks has or has not expired in consequence of the railroad company having failed to enforce such obligation heretofore. This is a question properly for the courts to determine.

It is perfectly clear, however, that a public duty rests upon the railroad company to build and maintain fences along the line of its road, as required by sections 8 and 9 of chapter 252 of the Laws of 1854.

It is the province of this commission to see that this duty is performed by the railroad corporations of the State. The company itself has recognized the duty, and the Board was led to suppose by the letter of August the first, as hereinbefore quoted, that the road would build its fences as soon as possible.

It is, perhaps, natural that the company should have endeavored to have compelled the abutting property-owners to sustain the expense of building these fences, if the company believed that such obligation still rested upon them, but inasmuch as questions of public safety are involved here, the Board deems that all the time has been extended to the company that could in reason be asked.

The Board, therefore, recommends that the company build and maintain the fences along the line of its tracks abutting the property of the complainants and elsewhere, as soon as the weather will permit in the spring, and furthermore, notice is given that unless such fences be built and maintained within a reasonable time of the opening of spring, the matter will be reported to the Attorney-General for his consideration and action.

XIV.

JAMES H. SANDERS AND OTHER RESIDENTS OF ST. JOHNSVILLE AND VICINITY
V. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

January 9, 1889.

This complaint alleges that the railroad crossing at Bridge street, St. Johnsville, N. Y., is a dangerous crossing at night, and asks that a night watchman be placed thereat.

The petition was forwarded to the railroad company in the usual course, October 22, 1888. An answer was received from Mr. J. M. Toucey, general superintendent, November thirteenth, saying:

"Bridge-street crossing is clear and unobstructed, and hardly two teams pass there after sundown during the night, at least such has been the case in the past month."

The answer of James H. Sanders to this was:

"That in the month of October he passed over this crossing nearly every night and found it blockaded by trains a number of times; he has himself seen more than two teams pass after nightfall, and that there is more travel through the night than in the daytime, between April fifteenth and August fifteenth. During that period the farmers from the southern vicinity do their shopping in the evening, and in the early morning hours take their milk to the various factories, over this crossing."

The complainant further states, for himself and other petitioners, that in case an additional flagman is not placed at this crossing at night, it would be better to have a night watchman rather than a day

man. The complainant further says that this crossing is one of the most dangerous between Utica and Albany.

A personal examination of this locality was made by Commissioner Rickard, November 30, 1888, and again on December 27, 1888.

This crossing is within the corporate limits and near the center of the village of St. Johnsville. It is at right angles with the tracks of the New York Central railroad, and is the only avenue of communication between the village, the West Shore station and a rich farming country lying south. The West Shore depot is so located that people use this crossing when going to and from it and the village.

To a traveler going north, the view is unobstructed, but to one going south the view of the tracks is interrupted east and west — east by the freight-house and cars on side tracks, west by several manufactories, various dwellings and cars on side tracks.

From the fact that St. Johnsville is a coaling station for all trains other than passenger, on the New York Central and Hudson River railroad, it frequently happens that trains stand for some time on the main tracks. This would also tend to obstruct the view of a traveler going south, of approaching passenger trains that move over tracks south of those used for freight service.

The railroad company has recognized the condition of this crossing by erecting gates and placing a flagman thereat during the hours from 6.30 A. M. to 6.30 P. M. The petition calling for an additional watchman at night has some force, from the fact that during the night fourteen passenger trains pass this station. Four of these stop and the others run through at a high rate of speed.

The freight-house at this station is located about fifty feet east of Bridge street, and close to the branch tracks that are used in loading and unloading cars, and for storage purposes. If cars were not allowed to stand on these side tracks during the night on either side of this street nearer than forty feet, there would be an unobstructed view of approaching trains for a considerable distance, making this crossing comparatively safe, providing the people using it took the necessary precautions.

It is believed that a conference between the authorities of the village of St. Johnsville, and the officers of the New York Central and Hudson River railroad, would lead to an amicable adjustment of the matter of this complaint.

The Board recommends that cars be not allowed to stand on these side tracks during the night on either side of Bridge street, nearer than forty feet.

XV.

M. COYLE v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

January 11, 1889.

Mr. Coyle, as agent for the Forepaugh show, complained that he was charged a shipment of a car load of animals from Watertown to Rome, \$240; while from Rome to Albany, for the same car, nine dollars and three cents, and from Albany to Providence, thirteen dollars and ninety-seven cents. He deemed the charges on the Rome, Watertown and Ogdensburgh road exorbitant, as compared with the charges of the other roads for a greater distance.

The company replied that the shipment consisted of one elephant, one hippopotamus, one lion, four royal Bengal tigers, one zebra and one yak, and were billed, as by the official classification adopted by the Trunk line joint committee of August 15, 1888, as live animals in cages, released, three times first-class, at one dollar and twenty cents per 100 pounds, with 20,000 pounds minimum weight. The company pointed out that the risk assumed by the company was "enormous" as compared with the ordinary risk in transporting live stock.

In answer to a letter by the Board, Mr. Coyle stated that the freight on the New York Central was not released and that no refusal to release the Rome, Watertown and Ogdensburgh had been made. But the Rome, Watertown and Ogdensburgh Company filed with the Board a copy of a letter from the assistant-general traffic manager of the New York Central showing that the freight was released. These facts having been communicated to Mr. Coyle, he made the reply that his letter declaring no release had been given, he had received from the master of transportation of the Forepaugh show, in which he stated that in shipping the car load of animals from Watertown, he signed "a release of some kind;" that he (Coyle) had written to Philadelphia for the shipping bill and when received, he would forward the bill.

As nothing has been heard from him since that communication which was of date of January 11, 1889, the Board deems that he has retired from the case.

XVI.

IN THE MATTER OF THOMAS BROWN AND OTHERS v. THE BUFFALO, ROCHESTER AND PITTSBURGH RAILROAD COMPANY.

February 12, 1889.

A petition numerously signed by residents of Scottsville, Garbutt, LeRoy, Pavilion and Pavilion Centre, in the counties of Genesee, Livingston and Monroe, all owners and occupants abutting on the right of way of the Buffalo, Rochester and Pittsburgh Railroad Company, sets forth: First, that the company for many years had failed to maintain its fences and farm crossings conformably with law; secondly, that by reason of the negligence of employees of the company, and the

defective condition of the locomotives, fires were so frequently communicated to standing crops and grass, and to growing timber on adjoining lands, that the owners thereof had suffered and were in constant dread of further loss.

At a hearing which took place at Rochester on January 3, 1889, before Commissioner Rickard and the secretary of the Board, where the complainants were represented by counsel, Mr. Arthur E. Clarke, and the company by Mr. Henry C. Danforth, the company admitted the bad condition of the fences and farm crossings, and alleged that since the present company had been in possession of the property, then some two years, diligent effort had been made and was then being made to repair the defects. Moreover, it was shown that the company before the hearing, had been engaged in obtaining a consensus of opinion from the petitioners and their neighbors as to the form of fence which should be built. The company, by its superintendent, Mr. Baldwin, assured the Board that the work of rebuilding the fences would be vigorously prosecuted as soon as the weather would permit.

The company denied the negligence of employees and defective condition of locomotives, without, however, attempting to refute the charge of the communication of fires.

The testimony upon this head showed an extraordinary frequency, one witness, Mr. Bradley, testifying that on one occasion a locomotive attached to a gravel train had set no less than twenty to twenty-five fires while traveling the space of one mile. A large number of witnesses were sworn, all of whom testified to an astonishing frequency of fires.

It was shown that in dry seasons, it was the custom to send men to the line of the road upon the approach of the trains, to watch for ignition from flying sparks, and that one or two large owners on the line employed men for that duty alone.

The sum of the testimony was, that fires were most frequently, if not wholly, communicated by engines having the diamond smokestack, several witnesses swearing that little fire, if any, was communicated by the type known as extension fronts. It was also elicited that the sparks thrown out were at times exceedingly large—one witness testifying that he had observed sparks as large as a silver dollar, and another as large as a butternut.

In justice to the company at present owning and operating the road, it should be said that part of the testimony covered a period of time anterior to its possession, but a good part of the evidence covered the previous summer and fall.

Mr. A. Dolbeer, the superintendent of motive power, was sworn and examined by Commissioner Rickard. By him it was shown that the company had in use ninety-one locomotives, sixty-seven of which were of the type known as extension fronts, and twenty-four diamond smokestacks; that the mesh of the netting used in both forms as spark arresters was one-quarter of an inch square; that a system of inspection of the locomotives obtained, by which any break in the nettings would be discovered at the end of the run and promptly reported and repaired, unless the end of the run was at a point where there was no shop, which was infrequent. This witness admitted that the mesh

used on the Pennsylvania road, with which he had previously been connected, was much smaller in size, but that the opinion of those concerned on the Buffalo, Rochester and Pittsburgh was that a smaller netting could not be used without interfering with the steaming capacity of the engines. The further fact was elicited, that the company was changing the diamond smokestack locomotives into extension fronts as rapidly as was consistent with the demands of the business of the road for motive power.

Immediately subsequent to the hearing, the inspector of the Board was instructed to inspect the condition of smokestacks of the locomotives of the company, and of the netting in them.

In his report to the Board, the inspector says:

"In all there are twenty-two locomotives on the Rochester division, five of which are in the shops for repairs. Twelve have extension fronts, and ten diamond smokestacks. * * * The extension fronts have the nettings in them so arranged as to hold cinders in front of extension boiler. * * * Experience has shown that this device is less liable to throw out cinders than the diamond stack, and that a coarser netting may be used. Two of these type of locomotives were examined and found with sound nettings. It was deemed unnecessary to open more of the extension fronts, as it is a matter of considerable labor to reseal them. All of the diamond stacks were examined. Three were found with broken nettings, and three others had holes in shell of stack below the screen. One of the defective engines is now out of commission, but was in use during the past summer and fall. This locomotive and one or two others of the same type of smokestack are to have extension fronts. Repairs were promptly made of all defective stacks in present use. * * * Samples of wire netting used as spark arresters on the above road, and also on the locomotives of the Central-Hudson and other roads, are handed in with this report. These samples show meshes for diamond stacks three-sixteenths of an inch square on the Central-Hudson, the New York, Lake Erie and Western, and the Western New York and Pennsylvania railroads. On the same type of smokestack, the Buffalo, Rochester and Pittsburgh railroad locomotives have meshes one-quarter inch square. The latter road uses same size of mesh in extension fronts. The Central-Hudson in extension front locomotives use a mesh of three-eighths of an inch square, the Erie three-sixteenths of an inch, and the Western New York and Pennsylvania five-sixteenths of an inch square.

"A number of locomotives more recently purchased by the Buffalo, Rochester and Pittsburgh Company had when delivered netting of a finer mesh than the sample. It was thought too fine, and had the effect to diminish the steaming capacity. The superintendent of motive power, however, has ordered netting of same size of mesh as used on the Pennsylvania road, and will endeavor to work it in the diamond stacks of his road. It will be observed that the netting of the Buffalo, Rochester and Pittsburgh is made of much larger wire than the other samples; consequently with the same size mesh there is considerably more draft obstruction."

The conclusion is reached, from the testimony before the Board, that the extraordinary frequency of fires is abundantly established; that such frequency must be attributed to the use of a netting in the smokestacks, the mesh of which is too large and the wire forming it too coarse; that in the past these nettings when broken have not been repaired as promptly as should have been done.

The negligence of employees working on the line, in failing to assist in putting out fires, was not established — in fact, a part of the complainants' testimony was to the end that such assistance was given. The rules of the road make it incumbent upon all employees to do so in all cases.

RECOMMENDATIONS.

The Board therefore recommends:

First. That a netting be placed in all diamond smokestacks, having a mesh of not more than three-sixteenths of an inch square, and that the wire used in the netting be of a size not larger than that forming the nettings in use by the Western New York and Pennsylvania railroad for diamond stacks.

Second. That such a system of inspection of the condition of the nettings at the conclusion of each run and reports be established as will insure the prompt repairing of any defect before the engine shall be put in use again, and that the system, when established, be strictly enforced.

Third. That the fences on the line of the road, now out of repair, be rebuilt and maintained in conformity with the provisions of law.

The Board is assured that this recommendation has been substantially complied with.

XVII.

JAMES PETERS v. THE COOPERSTOWN AND CHARLOTTE VALLEY RAILROAD COMPANY.

March 20, 1889.

This complainant charged that the employees of the company had kindled fires in his woods, had chopped young trees and taken away 800 feet of plank and boards and had failed to fence in their tracks, or to make a farm-crossing where necessary.

The answer of the company was that it was engaged in the construction of its road and would fence it as required by law; as to damage to young trees, the company denied any knowledge of such damage.

At this point Mr. Peters withdrew his complaint.

XVIII.

JOHN LIVINGSTON v. THE DELAWARE AND HUDSON CANAL COMPANY.

March 26, 1889.

This complainant stated upon information of a trainman in the employ of the company that the high bridge over the ravine near Nineveh, on the Albany and Susquehanna branch, was unsafe—in a dangerous condition—so much so that some of the employees expressed fear for their lives in passing over it.

The company replied by asking an official inspection upon the part of the Board. Accordingly the Board instructed its bridge engineer to make the inspection and his report is appended:

ALBANY, N. Y., March 26, 1889.

To the Honorable Board of Railroad Commissioners:

GENTLEMEN.—In accordance with your instructions, and at the request of the Delaware and Hudson Canal Company, I have examined the bridge on that company's railroad near Harpersville, concerning which a complaint has recently been filed that the structure was in dangerous condition, and a source of apprehension to trainmen, and I have the honor to report as follows:

The bridge is a single track iron trestle consisting of deck, plate girder spans supported by iron towers which rest upon masonry pedestals. It consists of five spans of forty-one feet each, six of thirty-three feet each, one of fifty feet and one of twenty feet. It was built by the Phoenix Bridge Company in 1885-6, but contains no Phoenix columns. The greatest height from masonry to grade is eighty feet.

Each iron tower consists of two bents thirty-three feet apart, braced together longitudinally and transversely, and spanned at the top by a thirty-three foot plate girder span. The towers appear to be all in good condition, well painted, the rods in good adjustment, and no loose rivets visible. The sizes of all members in the towers are ample for the heaviest loads used on the road, and for a wind pressure of thirty pounds per square foot against the structure, and a train of cars thereon.

The girders are spaced ten feet apart on centers, and are of ample strength. The ties are eight by twelve inches, yellow pine, twelve feet long, spaced seven inches apart in the clear. The bridge is provided with oak guard-timbers, six by eight inches in size, placed about one foot outside of the rails, laid flat, notched down one and one-half inches on the ties, and bolted to every fourth tie. The guard-timbers have flaring approaches at the abutments. The timber in the floor appears to be sound and good. Everything relating to the track on the bridge is in first-class order.

The masonry appears to be of excellent quality and in good condition. The railroad company reports that for two years after the bridge was built it was the duty of a watchman to visit it daily and take observations on certain marks made on each pedestal, to detect any settlement of same. Within a few months after it was completed, three of the pedestals near the west end were found to have settled to the amount of about one and three-quarter inches. The settlement then ceased, and no further motion has taken place. This settlement appears to have been entirely vertical, and probably due to the underlying gravel being not compact enough to support the pressure. The pedestals are not canted over nor does the masonry show any cracks. The girders resting on the bents supported by these pedestals have been raised by iron shims sufficiently to bring the track up to the proper surface.

On the whole I see no reason for any apprehension whatever as to the safety of this bridge. The railroad company reports that extraordinary care was used in building it and has since been exercised in its maintenance for the reason that its height is so great as to excite the apprehension of timid persons who might cross it. The company states moreover that inquiry has been made among trainmen who are accustomed to cross the bridge, and no one has been found who acknowledges ever to have felt any fear at crossing it, or to have ever seen anything in its condition to indicate danger.

I know of nothing which could be done to enhance the safety of the bridge except to provide it with Latimer rerailing guards at the ends, and the company reports that these are to be put on at once.

All of which is respectfully submitted.

CHAS. F. STOWELL,
Bridge Engineer.

XIX.

IN THE MATTER OF THE COMPLAINT OF CITIZENS OF BERLIN, RENSSELAER COUNTY V. THE FITCHBURG AND LEBANON SPRINGS RAILROADS.

April 24, 1889.

This complaint, signed by William H. Duffy, C. Whyland and Schuyler H. Hull, alleges that the complainants are residents of the town of Berlin, Rensselaer county, situated upon the line of the Lebanon Springs railroad about eleven miles south of Petersburg Junction, and thirty-five miles north of Chatham.

The petitioners complain generally of the high rates of freight upon the Lebanon Springs road and request an investigation thereof. Specifically, Mr. Whyland, being in the laundry business, states that he was charged three times first-class freight upon empty boxes returned to a correspondent in New York, whereas he was only charged at first-class rates when such boxes were filled coming to him; in other words, that he, Whyland, paid three times the amount for the return of the empty crates that he did when they came to him full. Complainants further allege that no special rates can be obtained by them on coal, but that at Chatham all parties who have any amount of coal shipped are getting it for thirty-five cents per ton, whereas they are charged one dollar and thirty cents from Troy to Berlin. Complainants further allege that the rates on potatoes have been advanced forty per cent the past year; the rate on wood one dollar and fifty cents per car, and the rates on other goods in proportion; that the only answer they get to their complaints is that more would be charged than less. They request an investigation and relief.

The Lebanon Springs railroad in its answer by Joseph Child, general freight agent, states, that the Lebanon Springs railroad was taken possession of April 1, 1886, by, and its name changed to, the New York, Rutland and Montreal Railway Company; that the officers of the last-named corporation were not acquainted with the business done upon the road sufficiently to know what was required in freight rates to enable the road to earn sufficient to pay operating expenses; that their first act was to issue a new tariff of freight rates much reduced from the rates previously in force; that, consequently, after running the road twenty-three months they were compelled to stop and abandon it; that having lost all their rolling stock and everything that was left being in the hands of the sheriff even to their office furniture, they incurred in addition an indebtedness of \$34,250.

Mr. Child further states that the rate on potatoes to Chatham from Berlin four years ago was eight and a half cents per hundred pounds, while at present the rate is seven cents.

With regard to the complaint as to coal, Mr. Child states as follows: The rate, Troy to Berlin, on coal, is one dollar and thirty cents per ton; Troy to Chatham seventy cents (not thirty-five cents as alleged by the complainants) per ton; difference sixty cents per ton; that the reason for the low rate to Chatham is that Chatham is only seventeen miles from Hudson, via the Boston and Albany railroad, while by the Fitchburg and the Lebanon Springs roads it is seventy-eight miles from Troy on the Hudson river; that the rate has been in force about eight years; that the company needs every dollar it can earn to pay running expenses.

Mr. Child further says that the freight bill of January 5, 1889, on three crates of empty paper boxes was an error and was corrected as soon as his attention was called to it.

The answer of the railroad was sent to the complainants and not proving satisfactory, a public hearing was held before the Board of Railroad Commissioners on Tuesday, April 23d, at which the complainants were represented by William H. Duffy and C. Whyland, and the railroad company by Mr. Joseph Child, general freight agent.

Considerable discussion was had and the complainants concluded that the principal grievance was the rate of freight on coal to Berlin as compared with that to Chatham. The other complaints were substantially withdrawn.

It will thus be seen that the question is presented whether the Lebanon Springs railroad is justified in charging more for a shorter than for a longer haul in the same direction on coal.

The rate charged from Troy to Berlin is one dollar and thirty cents per gross ton, of which the Lebanon Springs road receives eighty cents. This is not of itself an unreasonable rate as compared with the rates charged upon other lines of railroad similarly situated. What appears to give it its unreasonable character is that coal is carried past Berlin to Chatham and the rate to the latter point is only seventy cents a ton. It must be remembered, however, that Chatham is within seventeen miles of the Hudson river, and that the Hudson branch of the Boston and Albany railroad transports coal from Hudson to Chatham at the rate of seventy-two cents per ton. The Lebanon Springs railroad is therefore compelled to charge no more than the Boston and Albany railroad or give up the business of transporting coal to Chatham altogether.

As has been stated by this Board in previous cases, if the Lebanon Springs road can earn anything over the cost of hauling and handling the coal in the transportation from Petersburg Junction at this rate, it is a legitimate transaction for it to make such charge if it is unable to make a higher. (See report New York Railroad Commissioners for 1884, on pro rata freight bill, pages 10-90. A. D. & R. D. Foote and others v. Utica and Black River railroad, pages 94-102.)

The Interstate Commerce Commission, in its adjudication upon this much mooted subject, reaches a conclusion in the case of the Louisville and Nashville Railroad Company (First Interstate Commerce Commission report, pages 31 and 32), "That the existence of actual competition, which is of controlling force in respect to traffic important in amount, may make out the dissimilar circumstances and conditions entitling the carrier to charge less for the longer than for the shorter haul over the same line in the same direction, the shorter being included in the longer, in the following cases: First, when the competition is with carriers by water which are not subject to the provisions of the statute. Second, when the competition is with foreign or other railroads which are not subject to the provisions of the statute. Third, in rare and peculiar cases of competition between railroads which are subject to the statute when the strict application of the general rule of the statute would be destructive of legitimate competition."

While the transactions complained of are wholly within the State of New York, the decisions of the Interstate Commerce Commission on similar cases are pertinent to be cited.

Inasmuch as the Lebanon Springs railroad needs every dollar of revenue that it can legitimately secure to keep the road in operation at all, to say nothing of paying interest on its bonds or dividends upon its stock, the Board would feel very loath to dry up its sources of revenue unless it could be clearly shown that the charges that it makes are illegitimate or too high.

It appears that its coal traffic amounts to about 18,000 tons a year. The consumption of coal by the complainants, according to their own statements, was, by Mr. Whyland, 200 tons; by Mr. Duffy, from sixty to eighty tons a year. The difference to them between one dollar and thirty cents and seventy cents would, therefore, be, to Mr. Whyland, \$120 a year, and to Mr. Duffy, forty-two dollars.

A change in freight rates, as requested by them, which would extend over the line of the road, would be to it a much more serious matter than the relief would be beneficial to the complainants. While this, of course, would not be an argument in case of an illegitimate or unreasonable charge, it is a consideration which, under all the circumstances, can properly be taken into question.

In view of all the facts — of the extreme poverty of the Lebanon Springs road and of the desirability of permitting the road to at least earn sufficient to pay operating expenses and keep its property in safe condition, the Board is not disposed, at present, to recommend a reduction of rates, as requested by the complainants.

XX.

JOHN CROWNER v. THE BRADFORD, ELDRÉD AND CUBA RAILROAD COMPANY.

April 29, 1889.

The complainant, John Crowner, alleged that he was a resident of the town of Wellsville, in the county of Allegany, engaged in the business of stock raising on a cultivated farm of 200 acres; that in 1881, the Bradford, Eldred and Cuba railroad was constructed through portions of his farm, and that for a distance of sixty or seventy rods, through an improved portion of said farm, the road is constructed upon an old highway, on the south side of which no fence had, at the time of the complaint, been constructed, so that several fields of the complainant were left exposed, not only to the railroad tracks but to the highway. The complainant further set up an agreement between himself and the company, a verified copy of which was filed with the Board, whereby, in consideration of the right of way obtained by the company from the complainant, the company pledged itself to construct and maintain fences before running any cars, the terms of which agreement had never been complied with, as to the fences, though the attention of the authorities of the road had been repeatedly called to it.

The transmission of this complaint to the receiver of the company, Mr. Thomas C. Platt, was promptly followed by a letter from the receiver, wherein he stated that an immediate investigation would be

made, and if the facts were as stated in the complaint steps would be taken to comply with the obligations. On April twenty-ninth, four months after the complaint was made, the Board was informed that the fences were all built and in good order.

XXI.

JEROME OSBORN v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

May 11, 1889.

The complaint alleged that on November 25, 1888, a car load of cattle was delivered to the agents of the company at the freight yards at Herkimer, and were loaded on a car before 6 p. m. of that day, with the understanding that this car, with three or four other cars of stock, also loaded there, would be attached to such freight train as should first pass Herkimer, going east, and would be delivered at West Albany at or before daylight the next morning; that so far from this being done, fifteen freight trains passed Herkimer, going east, and to none was his car attached, nor was it until about 3 o'clock in the morning, and then to a train called a pick-up train, and that this train did not reach West Albany until 9 o'clock in the evening. The consequence was, as alleged, that the cattle were in an injured condition and had to be sold for much less than they would otherwise have brought. Moreover, that as Sunday is the main day for the sale of such class of stock, he was not able to offer his stock until after the purchasers of that class of stock had departed, and that during the following week, or until the next Sunday, he only sold three head, and that by reason of this delay and injury he was damaged to the extent of seventy dollars. He further alleged that he had addressed the company on the subject but had obtained no reply.

The company replied to the Board that it had made a thorough examination of the matter, and was then in communication with the complainant with a view to settlement.

Since the Board has heard nothing further from Mr. Osborn, it presumes the settlement has been made and is satisfactory.

XXII.

IN THE MATTER OF THE COMPLAINT OF THE RESIDENTS OF THE TOWN OF HAMPTONBURGH v. THE NEW YORK, ONTARIO AND WESTERN RAILROAD COMPANY.

May 14, 1889.

On April the 2d, 1889, the Board issued a recommendation in regard to a crossing in the vicinity of Campbell Hall, in the town of Hamptonburgh, as follows:

"After a thorough and full examination and hearing the Board deems it most expedient, under all the circumstances surrounding the

case, to recommend that the bank on the southwest corner of said crossing be removed to nearly a level with the highway, so that a train can be seen by a traveler approaching the track from the south five rods before crossing."

The company requested a rehearing and modification of the recommendation, which was granted by the Board, and a hearing was had on the 14th of May, 1889, at which the company was represented by J. Burton, the general manager, and E. Canfield, chief engineer.

Mr. Burton expressed the preference upon the part of the road to construct gates at this crossing rather than to cut away the obstruction of land. This was entirely satisfactory to the Board.

The Board, therefore, withdraws its recommendation of April the second, and instead thereof recommends that gates be constructed at this crossing as soon as practicable, and that in the meantime a flagman be stationed there to warn highway travelers of approaching trains.

XXIII.

IN THE MATTER OF THE COMPLAINT OF THE BUFFALO MERCHANTS' EXCHANGE
U. THE RAILROADS CENTERING IN BUFFALO, RELATIVE TO FREIGHT DISCRIMINATION.

May 20, 1889.

A letter was received by this Board, dated February the 9th, 1889, from John C. Graves, president of the Buffalo Merchants' Exchange, inviting the Board "to give a hearing in this city (Buffalo) at as early a date as possible, to merchants and shippers who desire to lay before you their grievances in the matter of freight discrimination." To which the Board replied: "Before setting a date for such hearing, the Board desires a communication or complaint setting forth the grievances that you desire to be remedied." In answer thereto, a committee consisting of A. R. James, James Wallbridge and J. C. W. Daly, appeared before the Board, April third, and explained the nature of the grievances of the city of Buffalo, with a request that a hearing might take place in that city where the merchants, manufacturers and dealers could present before the Board their grievances in their own language, and at which also the railroads centering in Buffalo might be represented.

The principal complaint of the committee was that the sum of the rates between western points and Buffalo, and Buffalo and eastern points, was greater than the through rate from such western points to such eastern points, thereby cutting Buffalo out from being a distributing center.

The Board explained to the committee that complaints of this nature, involving exclusively questions of interstate commerce, would be properly cognizable by the Interstate Commerce Commission. The committee recognized this to be the fact, but inasmuch as a similar complaint from citizens of Detroit had been brought before the Interstate Commerce Commission and had been decided against the com-

plainants, the committee were indisposed to bring the case before the latter tribunal, but desired that this Board should hear the complaints, even if it had no jurisdiction to redress the grievances, in the hope and with the expectation that a free discussion of the matters might lead the railroads, of their own accord, to voluntarily adjust the differences.

Hearing was, therefore, had at Buffalo on the 16th day of April, 1889, at the rooms of the Merchants' Exchange.

In order that the discussion might be full and complete, the following railroads were notified: Northern Central; Delaware, Lackawanna and Western; New York, Lake Erie and Western; Lehigh Valley; Michigan Central; New York, Chicago and St. Louis; Western New York and Pennsylvania; Lake Shore and Michigan Southern; Grand Trunk; New York Central and Hudson River; Buffalo, Rochester and Pittsburgh; and Rome, Watertown and Ogdensburgh.

It would be impracticable to present in detail the grievances of the merchants. A brief synopsis, however, is given of the complaints.

John N. Scatcherd, representing the hardwood lumber trade, stated that Buffalo had coming from the east eight trunk lines, from the west five, making a total of thirteen railroads entering the city; that there is represented to be within its borders 600 miles of track used for main line and switches and storage of cars; that the railroads had facilities in the city second to no other in this country, which, with the natural advantages that Buffalo possesses, should entitle it to fair consideration. He further stated that the lumber dealer in the city of Indianapolis is able to ship his lumber to New York city, through the city of Buffalo, if taken by the Lake Shore and the New York Central, or any other trunk line running through the city, for twenty-three cents per hundred pounds, whereas the rate from Indianapolis to Buffalo and from Buffalo to New York combined, is twenty-seven cents per hundred pounds, a difference of four cents per hundred pounds, which he claimed was a discrimination against Buffalo. Mr. Scatcherd then explained that this difference, amounting to one dollar and sixty cents per thousand feet, is sufficient to prevent lumber being brought from western points to Buffalo, there dried and distributed to eastern points. He cited the rates of freight from many points in the west to points in the east, but this single case is sufficient to illustrate.

F. H. Tyler, representing the grain trade, said the fact that the sum of the rates from western points to Buffalo and from Buffalo to eastern points was greater than the through rate from such western points to such eastern points, rendered it impossible for the city of Buffalo to receive grain from western points and distribute it to eastern points. His figures were that from Chicago to Philadelphia and points taking Philadelphia rates, the charges were five cents less per hundred pounds than from Chicago to Buffalo and from Buffalo to such points as Philadelphia and places taking Philadelphia rates; Baltimore rate points six cents per hundred pounds; Albany rate points one and one-half cents per hundred, and points taking New York rates three cents per hundred; that any of these figures were quite enough to take the business away from Buffalo, and in the case of Philadelphia and Baltimore points, were practically prohibitive at all times.

George P. Sawyer, representing the pine lumber interests, spoke and presented figures to the same effect. For instance, from Detroit to Baltimore the rate is sixteen and one-half cents, while the combined rate from Detroit to Baltimore through Buffalo would be twenty-three cents, being a difference of six and one-half cents per hundred pounds, and so on through the list of a great number of stations. Mr. Sawyer was willing to concede one cent per hundred pounds for terminal charges, which he claimed had been admitted in parallel cases by the railroads, to be a sufficient charge. He presented figures showing that the amount of shipments from Buffalo was in the neighborhood of 200,000,000 of feet a year; that the business, therefore, was of very great importance.

Leroy S. Oatman, representing the Produce Exchange, dwelt more particularly upon the discriminations against Buffalo in the matter of west-bound freights. He alleged that the difference between the through rates and the sum of the locals on fruits from New York to Dunkirk, for instance, on first, second and third-class respectively, was fifteen and one-half cents on first, twelve and one-half on second, and ten and one-half on third. The commodities coming under this classification that he dealt in were oranges, lemons, bananas, figs, dates and goods of that kind. Mr. Oatman further alleged that the tariff rate in force from June to July, 1888, from New York to Buffalo on third-class goods was twenty-eight cents, New York to Hamilton, Ont., thirty-seven cents, from Buffalo to Hamilton, Ont., fifteen cents; he then presented a receipted bill for a carload of oranges, third-class goods, from New York city to Hamilton, passing through the city of Buffalo and delivered at the city of Hamilton at the rate of twenty-four cents per hundred. He then showed that it would have cost him twenty-eight cents to have brought it to Buffalo and fifteen cents from Buffalo to Hamilton, making forty-three cents, whereas the through rate charged to Hamilton was only twenty-four cents.

The attention of Mr. Oatman was called to the fact that Hamilton was outside of the limits of the jurisdiction of the United States, and that had such a disregard of the tariff sheets occurred within the United States, it would have come clearly within the operation of the Interstate Commerce Law, and would have subjected the officers of the railroad to severe penalties. Mr. Oatman then claimed that a similar discrimination had been going on for years against Buffalo and in favor of Rochester; that, while the tariff rate on second-class goods from New York to Buffalo had been thirty cents, and to Rochester twenty-five cents, this rate had been frequently disregarded in favor of Rochester firms. In proof of his allegation he presented a receipted bill from the Merchants' Despatch Transportation Company on which the charges to Rochester were at thirteen cents per hundred instead of twenty-five. He further stated that from December seventeenth to the time of the hearing, the tariff on second-class goods was thirty-three cents to Buffalo and thirty cents to Rochester; that he had a receipted bill dated the twenty-first of December, showing a rate of but thirteen cents per hundred to Rochester, which he subsequently submitted to the Board. He substantiated his statements by several other illustrations.

Leroy S. Oatman's statements have not been answered or explained by the New York Central Railroad Company, although one of its agents was present at the hearing. The Board, therefore, deems that a *prima facie* case has been made out in Mr. Oatman's favor. It, therefore, calls the attention of the New York Central railroad to this palpably unjust discrimination, and recommends that it be discontinued hereafter.

A. R. James, representing the flour milling trade, made the same complaint with regard to rates charged upon flour, that previous speakers had with regard to their respective interests, viz., that the sum of the rates from the western points to Buffalo and from Buffalo to eastern points was greater than the through rate from such western point to such eastern point, and that it made a more serious difference to his business; for instance, that the through rate on flour from Chicago to New York was twenty-five cents per hundred pounds, from Chicago to Buffalo it was fifteen cents, and from Buffalo to New York thirteen, making twenty-eight cents; that this difference of three cents a hundred, or six cents a barrel, made upon the output of his mill (2,000 barrels a day) a difference of \$120 a day or about \$40,000 a year.

At a hearing at a conference before the Trunk Line Executive Committee and a committee of the Buffalo Merchants' Exchange, while dwelling upon this subject, Mr. James said: "The joint output of all the mills in the vicinity of Buffalo raised the amount to about 10,500 barrels per day; were the rates between western points and eastern points pro rated, thus abolishing this discrimination against Buffalo, there would be no reason why Buffalo should not make more flour than the city of Minneapolis."

Mr. James further complained that at times shipments from western points on through rates to Liverpool, London and Glasgow were made at rates which were denied to Buffalo. No testimony was adduced in proof of this statement, but as it went uncontradicted by the railroad representatives present, it may be assumed to be true. The Board will not here discuss the general policy of permitting flour and grain to be exported to European ports at rates to the seaboard less than if such grain or flour is not intended for export; but it can with propriety, and it does emphatically, express the opinion that if these through rates are allowed to any city, they should be allowed to all, and that Buffalo being a large milling town should not be thus cut off from the privileges granted to other similarly situated cities.

The other parts of Mr. James' complaint, and that of previous speakers, i. e., the difference between the sum of the local and through rates from the western points to New York, involving a discrimination against Buffalo, the Board will discuss later.

James Wallbridge, representing the hardware merchants, complained that during the season of lake navigation it had been repeatedly the case in recent years that rates of freight from the east have been no higher on merchandise to Cleveland, Detroit and Chicago than they have been to Buffalo; that such a condition of affairs precluded the possibility of a Buffalo merchant doing a jobbing trade in the Western States. Mr. Wallbridge claimed that Buffalo was discriminated against in that a higher rate was not charged to Cleveland, Detroit and Chicago than

to Buffalo. He also drew the attention of the Board to another kind of discrimination which he illustrated as follows: "The rate on third-class freight from Buffalo to Port Allegany, Penn., is twenty-five cents per hundred pounds, and from Cleveland, Ohio, it is twenty-four cents per hundred pounds; the distance from Buffalo is ninety-six miles over the direct line of the Western New York and Pennsylvania railroad; the distance from Cleveland via the Lake Shore and Michigan Southern railroad to Erie ninety-five miles, Philadelphia and Erie to Warren sixty-six miles, then by a circuitous route over the branches of the Western New York and Pennsylvania, via Kinzua and Bradford eighty-seven miles, to Port Allegany, or a total over the line of the three roads of 248 miles as against ninety-six miles from Buffalo, and yet the rate is one cent per hundred cheaper over the longer route."

While both the cases of discrimination mentioned by Mr. Wallbridge are clearly within the jurisdiction of the Interstate Commission, and without the jurisdiction of this Board, there can be no impropriety in the Board's drawing attention to the injustice thereof, and to publicly expressing the opinion that such discriminations should be abolished by the voluntary action of the railroad companies.

George M. Pierce, speaking for the manufacturing interests, alleged substantially that Buffalo was discriminated against in both directions, in that the sum of the locals from western points to eastern points, and *vice versa* passing through Buffalo, was greater than the charge on the direct line. Numerous instances were adduced sustaining his position. A single one will suffice: From Boston, Mass., he stated the tariff to be on first-class goods to Chicago, fifty-four cents, the rate from Boston to Buffalo forty-four cents, and from Buffalo to Chicago thirty cents, making a difference on first-class goods of twenty cents per hundred pounds.

He claimed to represent the complaints of eighteen firms, employing 4,020 employees, and manufacturing last year 171,000 tons of goods, using therein 246,500 tons of raw material.

R. H. Furgerson, dealer in grain, presented to the Board figures which were quite significant. They have not been substantiated, but as presented, they were in brief as follows: From 455 stations in the States of Ohio, Indiana and Illinois, he finds that the average discrimination against Buffalo is, when to Albany, two and one-half cents, when to New York, the same; when to Baltimore, five and one-half cents, and when to Philadelphia, five cents. This was in relation to grain freights and on the basis of winter rates. Mr. Furgerson drew attention to the fact that when grain goes by lake to Buffalo, the conditions are precisely the same whether it goes through to New York as one transaction or lays over in Buffalo at the elevator for distribution from Buffalo to New York or other points. He states:

"You were with us to-day when we went to see the elevators lying below. Now, sir, at six of those elevators lake propellers and vessels go right to those elevators and discharge their cargo. If a Chicago man has grain to go to New York, or Boston, or anywhere east of Buffalo, the New York Central, and Erie and the other roads will take their cars into that elevator, over the same rails and receive their load of grain from the same spouts, and after they receive it they will go rolling over the same tracks as the Buffalo man's grain to Boston or New York, and they will go over that distance at one and eight-tenths cents per bushel lower for the Chicago man than they do for the Buffalo man. We

claim that there is no reason for that terminal charge. There is not one iota more terminal work to be done for the Buffalo man than there is for the Chicago man."

B. Holmes addressed the Commission with regard to the injustice of the switching charges assessed by the railroads. He stated that after a train reaches the International bridge at Niagara street, it is brought three miles to the station, and for that every car is charged three dollars; if the car is taken from the International bridge to the eastern part of the city, the charge is five dollars. He draws attention to the fact that the Lumbermen's Exchange has considered this question as one of considerable importance, "and it would seem that it would be an advantage to the city at large if the railroads would consent to shift their cars on one another's road, so that a person in a situation near one station could receive a car that would come over another road, and have a universal switching charge of a certain amount." Mr. Holmes claims that this switching should be done without any charge to the shipper, and that they should settle the switching charges among themselves.

A further complaint with regard to this matter of switching charges was presented to the Board on behalf of the Black Rock Business Men's Association. The latter complaint is signed by the Lacock Lumber Company and eight other industrial enterprises. It calls the attention of the Board to the multiplicity of the switching charges of the railroads centering at Black Rock, varying from one dollar to five dollars per car. It states that the New York Central railroad usually charges three dollars and fifty cents per car from East Buffalo to Black Rock, a distance of ten miles, or to Erie street, a distance of thirteen and one-half miles, the same; whereas, from Black Rock to Erie street, a distance of but three and one-third miles, it charges three dollars and fifty cents; that the Erie, the Lackawanna and the West Shore charge from three dollars and fifty cents to five dollars, according to the caprice of the clerk or agent. The complainants ask that the charges from East Buffalo to all points at Black Rock be reduced to two dollars per car via all roads, and that roads connecting with the New York Central, Erie, Lackawanna and West Shore railroads assume this switching charge in their through rate, and deliver merchandise at Black Rock for the same rates as at East Buffalo or Exchange Street station.

Complainants also request that a uniform rate not to exceed one dollar per car be charged for placing cars from their own or connecting roads to any particular switch desired by the consignee, thereby facilitating the easy handling of goods and a great saving of cartage. The complainants allege that cases frequently occur where one road refuses to allow the cars of another company to be placed or unloaded on its switch, at any price. The complainants claim that if low uniform switching charges are made to all switches, it will increase the profits of railroad companies, and will benefit shippers in loading and unloading goods, and will relieve them from the vexatious delays in getting cars to their place.

As this complaint with regard to switching is one which may be regarded separate and apart from the general complaints of the citizens of Buffalo alleging discrimination, the Board goes no further at present than to call the attention of the railroads to the complaint.

with the recommendation that they consider the question of uniform switching charges, with a view of facilitating the interchange of business among each other. A copy of the complaint has been sent to the different railroad companies mentioned therein, with a request to answer the same, and will be the subject of a further report from this Board.

At the hearing, the Board was further addressed by C. B. Matthews, representing the oil business, to the same general tenor as the previous speakers.

While numerous representatives of the railroads were present, no answer was made to the charges of discrimination, except by S. S. Seymour, representing the Northern Central railroad. He expressed the intention of sending a further communication to the Board, but has failed to do so. His remarks were in the nature of a general denial of an intention upon the part of the railroads to unjustly discriminate against Buffalo, and an assertion of the difficulties of adjusting tariff rates so as to be satisfactory to all cities and places. As an illustration he said: "Cleveland is 180 miles west of Buffalo; it is as near Baltimore as is Buffalo. Upon the arguments advanced at the hearing, Cleveland should have as low a rate to Baltimore as Buffalo; under which circumstances where would Buffalo be with its advantages? Again, Pittsburgh is much nearer Baltimore than Buffalo; Pittsburgh is also on the route from Chicago to Albany, Pittsburgh does not beat Buffalo in Albany in competition with any of their manufactures, and Buffalo would be somewhat surprised if Pittsburgh should attempt to beat them in Albany." His remarks may be summed up in the phrase that "the problem of how the different localities and different ports of commerce shall be equalized is a very serious one, and it can't be settled in one day's conference."

From the above synopsis of the complaints presented at the hearing, it will be seen that the gravamen is,

First. That the sum of the rates from western points to Buffalo and from Buffalo to eastern points, is greater than the through rate from such western points to eastern points. For instance, the through rate from Chicago to New York is twenty-five cents, while the rate from Chicago to Buffalo is fifteen cents, and from Buffalo to New York thirteen cents, making the sum of the two rates twenty-eight cents.

Second. That the sum of the rates in the opposite direction from eastern to western points, passing through Buffalo, is greater than the through rates from eastern points to western points.

As stated in the beginning of this report, these complaints are almost exclusively with regard to interstate commerce, and are, therefore, not properly within the jurisdiction of the Board. Inasmuch, however, as this condition of affairs gravely affects the prosperity of citizens of the State, the Board deems there can be no impropriety in discussing the subject, even if it is powerless to work a remedy. The remedy suggested by the complainants is the passage of a pro rata freight bill. Such a bill has been introduced and provides that

"No railroad or railway corporation organized or doing business in this State under an act of incorporation or general law of this State, or which shall hereafter be organized thereunder, or any railroad corporation

organized, or which may be hereafter organized under the laws of any other State, and which shall do business in this State, shall charge, contract, or receive, for the transportation of any passengers or freight of any description upon its railroads for any distance within this State, a greater amount of toll or compensation than is at the time charged, collected or received by it as its share of the through rate for the transportation in the same direction, over the same distance of the same railroad of any passenger or like quantity of freight from a point without the State to a point within the State, or from a point within the State to a point without the State, with reasonable terminal charges added, to be fixed by the Railroad Commissioners of this State. Nor shall such charge be hereafter made or sum be received by any such railroad or railway company under cover of, or by means of, any rebate, draw-back, shift or evasion whatever calculated to evade the provision of this act."

This is a subject which has received the consideration of commissions and legislatures many times heretofore, but so far as the Board knows has been universally condemned as impracticable. At the time of the passage of the Interstate Commerce Act, persons familiar with the discussion will remember the difficulty with which the clause was inserted prohibiting a higher price for a shorter than for a longer haul. The provision was inserted, however, to be enforced as a general rule, but still providing that under certain conditions a higher price might be charged for a shorter than a longer haul. The subject was hardly touched upon of imposing rigid pro rata rates.

The effects, however, of the passage of the Interstate Commerce bill have been such that this pro rata question assumes an importance which can not be disregarded. Previous to the existence of the Interstate Commerce Law, a sort of rough-and-ready justice had, on the whole been extended by the railroads in the way of special rates to large industries, which enabled manufacturing, milling and other large interests throughout the country to compete with each other on a basis, that to them at least, was generally pretty satisfactory. These special rates, however, were the subject of great complaint upon the part of other shippers who did not receive them, and the injustice and discriminations thus brought about, among other things, led to the passage of the Interstate Commerce Act, prohibiting special rates and placing everybody upon the same basis. The result has been, if not revolutionary, certainly *evolutionary*, for from the altered conditions brought about, a stable or satisfactory condition of affairs has by no means been evolved. If it shall turn out that the abolition of special rates renders it impossible for manufacturing and milling industries in the east to compete with the same in the west except upon the basis of absolutely pro rata freight charges, sooner or later pro rata freight charges must obtain. Citizens of Buffalo will not continue longer to submit to a discrimination of three cents per hundred pounds on grain freights for precisely the same service as is rendered the through shipments. As Mr. Furgerson showed, grain shipped by lake and rail from Chicago goes through the elevators in Buffalo, and precisely the same service is rendered in the through shipment from Chicago to New York as is rendered when the grain stops for three or four days or a week in Buffalo, and is thence sent to New York or some interior point. Under such circumstances, therefore, the difference of three cents is without justification.

Where a through shipment by rail takes place there unquestionably is some difference in the terminal expenses at Buffalo, which should

properly be allowed to the railroads. The Board is not prepared at the present moment to definitely state what this terminal charge should be, as the figures and expenses are not before it to justify such a determination. Neither can the Board with propriety make any recommendation with regard to the charges on through freights that the railroads centering in Buffalo shall make. In view of the fact, however, that the excess of rates that the railroads are charging upon freights stopping in Buffalo, over and above through freights from western points to eastern points, is certainly but surely driving business from the State of New York and thereby incidentally injuring the railroads as well as the citizens of the State, the Board can with propriety and does hereby recommend to the railroads within its jurisdiction at Buffalo to seriously consider the propriety of pro rating freights from Buffalo to points east and west thereof upon the basis of through rate charges.

The objection that a railroad can afford to charge less rate per mile on the long haul than on the short haul does not apply here, for the reason that Buffalo is the western terminus of all the roads considered—and the length of haul on each would be precisely the same whether the shipment originated at Buffalo or at a point west thereof.

CONCLUSIONS AND RECOMMENDATIONS.

The Board recommends :

First. That the New York Central and Hudson River Railroad Company cease the discrimination alleged in favor of certain firms in Rochester, and against firms in Buffalo engaged in the produce business, but that said railroad company charge all firms engaged in the said produce business at Rochester the published tariff rates.

Second. When goods are shipped from New York city to points beyond the State, as, for instance, to Hamilton, Ont., the transaction becomes one of Interstate Commerce over which this Board has no jurisdiction. The Board can, however, and does express the opinion that rates of freight from New York city should not be less to Hamilton, Ont., than to Buffalo, N. Y.

Third. Goods or produce coming from points beyond this State to the city of New York intended for export are articles of Interstate Commerce, and transactions connected therewith are not within the jurisdiction of the Board. But as stated above, with regard to certain transactions, the Board can with propriety, and it does herewith express the opinion that if goods or produce intended for export are carried to the seaboard from any city at rates less than are charged if not intended for export, the same privilege should be extended to all points, and Buffalo should not be discriminated against.

Fourth. The Board is of the opinion that rates on hardware from New York and other points east of Buffalo should be lower to Buffalo than to Cleveland, Detroit, Chicago and other western cities.

Fifth. For reasons hereinbefore stated, the Board deems that the railroads should seriously consider the propriety of charging no more upon freights from Buffalo to eastern points than the pro rata share of the through rate from western points to such eastern points where such produce or merchandise in each case passes through the city of Buffalo, and the terminal expenses in the city of Buffalo are the same

in both cases. The Board deems that this principle should be observed, even if it should eventuate in higher charges being made from western points to eastern points and the seaboard, otherwise the result will be that the centers of business and distribution will be pushed further and further west to the detriment and eventual paralysis of eastern cities — a result which certainly will not be calmly tolerated.

XXIV.

AUGUST OHL v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

June 12, 1889.

The complainant represented that he was a wholesale butcher doing business on Kossuth avenue, Utica, N. Y., and received six or seven car loads of hogs weekly from Buffalo, and that he was obliged to drive them two miles from the stock yards, and that in warm or muddy weather or when the snow was upon the ground, one or two were lost in such driving. He therefore prayed the intervention of the Board to induce the company to erect a cattle chute on Bramhall's switch at the junction of East street and Kossuth avenue.

The reply of the company was that the hogs were shipped by the New York Central and that Bramhall's switch was on the West Shore road; it would therefore, to do as the complainant wished, necessitate the sending of the cars to Schuyler junction, crossing there to the West Shore and then running back to Utica at a cost of ten dollars per car.

To this Mr. Ohl replied that if he were permitted to build a chute at Bramhall's switch he would ship via West Shore.

The subject was then referred to the West Shore and the matter was arranged by putting in a new side track on the West Shore near the complainant's place of business.

XXV.

VILLAGE OF GOWANDA v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

June 24, 1889.

The trustees of the village of Gowanda complained that when the Buffalo and Southwestern Railroad Company, now under lease to the New York, Lake Erie and Western Railroad Company, built its road, it not only carried the road over the highway, but it changed the course of the highway so that it presents, at the point of crossing, two

right angles, compelling the traveler, on either side of the track, to pass alongside of it for several rods. Moreover, the track is there supported by bents resting on the highway and so closely placed together that there was barely room for wagons to pass through.

The Board directed the attention of the trustees to section 3, chapter 439, Laws of 1884, under which they could obtain adequate relief.

XXVI.

IN THE MATTER OF THE PETITION OF THE ULSTER AND DELAWARE RAILROAD COMPANY, UNDER CHAPTER 236 OF THE LAWS OF 1889, FOR A CERTIFICATE RELIEVING SAID CORPORATION FROM THE OBLIGATION TO EXTEND ITS ROAD.

June 24, 1889.

This petition, dated the 9th day of May, 1889, was duly lodged with the Board. It alleges that the petitioner is a corporation organized under chapter 430 of the Laws of 1874, and the acts amendatory thereof, and operates a railroad from the city of Kingston, in the county of Ulster, to Stamford, in the county of Delaware, a distance of about seventy-four miles; that it obtained title to its line of railroad and franchises by deed bearing date of June 12, 1875, duly recorded in the office of the clerk of the county of Ulster, the 5th day of August, 1875; that said deed was taken from the purchasers under foreclosure of two certain mortgages, the one executed by the Rondout and Oswego Railroad Company, and the other by the New York, Kingston and Syracuse Railroad Company, to which latter name the Rondout and Oswego Railroad Company had been changed in accordance with chapter 604 of the Laws of 1872.

That said Rondout and Oswego Railroad Company was organized originally under the provisions of the act of 1850, for the purpose of maintaining and operating a railroad from Rondout, Ulster county, to or near the villages of Oneonta or Colliersville, Otsego county, a distance of about eighty-five miles.

That, at the time the petitioner obtained title to the said line of railroad, by deed above referred to, the said road was constructed from Kingston to Stamford, and has ever since been maintained and operated by the petitioner between said points; that no portion of said line of railroad as originally contemplated by the articles of association of the said Rondout and Oswego Railroad Company beyond Stamford and between that point and Oneonta aforesaid was ever constructed and operated by the petitioner.

That the said railroad of the petitioner is encumbered by a certain mortgage bearing date July 1, 1875, secured by which there have been issued, and are now outstanding, bonds to the amount of \$200,000; and that said railroad is also encumbered by a second mortgage, as an income mortgage, secured by which bonds were issued and are still outstanding and unpaid to the amount of \$1,346,400; that said income bonds bear interest, payable semi-annually (not exceeding seven per cent per annum), as the net earnings of the said railroad may warrant;

that no interest has ever been paid on said income bonds and said road has in addition thereto a considerable floating indebtedness, aggregating nearly \$300,000.

That the petitioner has no funds wherewith to build any additional line of railway; that the location of the line of the additional portion of said Rondout and Oswego Railroad Company beyond Stamford, as aforesaid, or between that point and Oneonta, is largely through a rough, barren country, where the population was, and is, sparse; where neither the requirements of business nor the convenience of residents call for the building of the extension of the road of the petitioner, and that over or near that portion of said line which does not run through said rough and barren country another company is now engaged in constructing a line of railroad.

Wherefore, the petitioner prays that this Board "shall certify that in their opinion the public interests, under all the circumstances, do not require an extension of its said line of railroad between Stamford and Oneonta, on the line contemplated by the Rondout and Oswego Railroad Company, or any extension westward from Stamford whatever, in pursuance of the provisions of chapter 236 of the Laws of 1889."

Chapter 236 of the Laws of 1889, under the provisions of which this petition is made to the Board, amends chapter 430 of the Laws of 1874, entitled "An act to facilitate the reorganization of railroads sold under mortgage," by adding thereto the following section, to wit:

"§ 5. Nothing herein contained shall be construed to compel a corporation organized under this act to extend its road beyond the portion thereof constructed at the time said corporation acquired title to such railroad property and franchise, provided the Board of Railroad Commissioners of the State shall certify that, in their opinion, the public interests under all the circumstances do not require such extension. If said Board shall so certify and shall file in their office such certificate (which certificate shall be irreversible by said Board), said corporation shall not be deemed to have incurred any obligation so to extend its road, and such certificate shall be a bar to any proceedings to compel it to make such extension or to annul its existence for failure so to do, and shall be final and conclusive in all courts and proceedings whatever. Nothing herein contained shall be construed to authorize the abandonment of that portion of a railroad which has been constructed and operated."

It will be seen that no provision is made in the act for notice to those presumably interested in the completion of the line of railroad. The Board, however, advertised in the papers at Kingston and Stamford that a public hearing would be held at its office in Albany, on Tuesday, May twenty-eight. A written notice was also given to other parties, reported to have opposed the passage of the bill.

At the hearing the petitioners were represented by J. E. Burrill, Esq., counsel, and Samuel G. Dimmick, a director of the Ulster and Delaware road. The granting of the certificate was opposed by John P. Grant, Esq., representing the town of Harpersfield, and Edwin Countryman, Esq. At the request of the latter an adjournment was granted for two weeks for the purpose of permitting affidavits to be lodged with the Board in the interests of the town of Harpersfield and as showing the expediency of the completion of the old line of the Rondout and Oswego railroad.

At the second hearing, June eleventh, the railroad company was represented as at the first hearing. Mr. Grant represented the town of

Harpersfield. Affidavits from both sides were lodged with the Board as to the merits of the respective routes, and arguments were also made for and against the Board's granting the certificate.

Two questions are involved in the consideration of this case.

First. The legal question of the obligation of the Ulster and Delaware Railroad Company to complete the old line of the Rondout and Oswego railroad.

Second. The merits of the case, which are left entirely within the discretion of the Board.

FIRST.

As to the legal question. It may be held that the question as to whether the obligation to complete the old line of the Rondout and Oswego road passed through foreclosure to the Ulster and Delaware road, is not properly before this Board. The case, however, would hardly be complete unless some allusion were made to it.

It appears that in 1869 at the time of the building of the Rondout and Oswego railroad, the town of Harpersfield bonded itself for \$100,000 to aid in its construction and took stock to that amount. At the time of the foreclosure this stock was wiped out and the town of Harpersfield declined to take part in the reorganization proceedings. The town has felt that in view of this subscription it has an equitable right, if not a legal one, to have the road constructed by the new corporation upon the line of the old route as originally laid out.

A petition was brought before this Board by the citizens and taxpayers of this town, in 1885, for a recommendation that the road be compelled to complete its line, or that the money of the town invested in the road be refunded. The Board declined to grant the petition at that time for the reason that if any such obligation rested upon the Ulster and Delaware railroad, the time within which to complete the extension had not expired.

Subsequent to the expiration of the time an application by the town board of Harpersfield was made to the Hon. Charles F. Tabor, Attorney-General, to have him bring a suit against the Ulster and Delaware Railroad Company, pursuant to the provisions of sections 1798 *et seq.* of the Code of Civil Procedure, for the purpose of vacating the charter of that company upon the ground that it had failed to complete the old line of the Rondout and Oswego road within the time prescribed by law. In an elaborate opinion delivered by him January 30, 1888, the Attorney-General discusses the pros and cons in the case. In the application of the law, as laid down by the Court of Appeals in the case of *The People v. The Rome, Watertown and Ogdensburg Railroad* (103 N. Y., p. 95), he says, "There is no doubt that this last case cited holds and decides that if the bonding proceedings mentioned in the petition herein created a contract between the town of Harpersfield and the Rondout and Oswego Company, the contract right and obligation are not in any sense a public matter in which the people of the State, in their sovereign capacity, are interested. If there is a valid contract still in force, it must be enforced by some proceeding taken on behalf of the town, and can not be enforced by proceedings instituted by the Attorney-General on behalf of the people of the State. And it may also be assumed that no contract obligation of the old road ever devolved upon the new corporation. That remained where the unsecured obligations of the Rondout and

Oswego Railroad Company vested after the foreclosure of the mortgage given by it. It did not pass by foreclosure sale to, or devolve upon, its successors, the Ulster and Delaware Railroad Company.

"But this case is not, I think, authority for the doctrine that the statutory liability imposed upon the old company did not devolve upon the new corporation. I think that there is a distinction between the contract obligations of the old road and the statutory obligations imposed upon it by the very force of its incorporation.

"I have determined to give the benefit of the doubt to the people."

He then authorizes the attorneys for the petitioners, in his name, to apply to the Supreme Court for leave to bring the action prayed for.

The application was made to Judge Parker at the Ulster County Special Term, and the application granted. In the course of his opinion, Judge Parker said: "Did the Ulster and Delaware Railroad Company, by reason of the sale and reorganization under the law of 1874, acquire the property charged with the liability of completing the road which the law had imposed upon the Rondout and Oswego Railroad Company, has never been passed upon by the courts of this State. * * * The question presented, to say the least, is of sufficient importance to justify the people in submitting their case to a court from the determination of which a review can be had in the appellate courts."

An appeal was taken by the railroad company to the General Term. The order of the Special Term was sustained, and the case is therefore on the calendar for trial.

It will thus be seen that the main question, viz., as to the obligation of the Ulster and Delaware railroad, or any railroad under similar circumstances, to complete the line of the railroad purchased at foreclosure, has not been decided by the courts of this State.

As the question is not necessarily before the Board in this action, it would evidently be improper for it to express a positive opinion upon the subject. It may be proper to call attention to the fact, however, that the argument *ab inconvenienti* against such obligation passing is a very strong one. The State is full of cases where part of a railroad has been built, the corporation has failed, and another corporation has bought a portion of the constructed line as a link in its own chain of line.

For instance, at the time the West Shore railroad was built it found pieces of defunct road in various parts of the State which it could apply to complete its own line. If it had been required, however, to complete the entire road of each one of these pieces, it would not have dared to have purchased them. So it is with many other railroads. It is doubtless the fact to-day that, if the obligation rests upon all railroad corporations to finish entirely the roads of defunct corporations, parts of which they may have bought in at the time of building their roads, there would not be a charter in the State but what would be liable to a suit for forfeiture.

On the other hand, it may be claimed that the passage of the act under which this application is made, is a legislative interpretation that such obligation passes, for if not, what would have been the necessity of the act? Certain it is that if the passage of the act is not held as a positive legislative interpretation that such obligation passes, it is a legislative opinion that there is a grave doubt on the subject.

SECOND.

As to the merits of the case. At the hearing June eleventh, numerous affidavits were submitted by the company bearing upon this question: Affidavits were also submitted by Mr. Grant in favor of the route as originally laid out.

An elaborate brief has also been subsequently filed by Mr. Burrill, counsel for the petitioners.

The facts in brief, as found by the Board, are as follows:

That the Rondout and Oswego Company built the road from Rondout to Stamford and exhausted its resources in so doing; that since the purchase by the new company there has been expended, as reported to the Board, in purchase, construction and equipment, the sum of \$3,125,868.18; that no dividends on the stock, or interest on the income bonds of the new company have ever been paid; that it owes a floating debt exceeding \$260,000, a first mortgage of \$200,000, a second, or income mortgage of \$1,342,000, a mortgage on its terminal real estate of \$50,000, and has made default in the payment of the January interest on its first mortgage bonds.

The Board also finds that parties interested in the Ulster and Delaware Railroad Company have formed a new corporation entitled "The Delaware and Otsego Railroad Company," which has laid out a route commencing at the terminus of the Hobart Branch railroad in the town of Stamford, and running thence by the most direct and feasible route, via the village of Bloomville, through the towns of Stamford, Kortright, Meredith and Davenport, into the town of Oneonta, and terminating at or near the village of Oneonta in the county of Otsego, together with a branch line of said railroad from a point near the village of Bloomville, through the towns of Kortright, Stamford and Delhi into the village of Delhi, the county seat of Delaware county; that rights of way for the whole route except two parcels have been obtained, and that eight miles in one place has been graded and bridged, and that about three and a half miles in another have been graded; that the work is being prosecuted with diligence, and the Board is assured that it is the intention of the parties in interest to build the road and to connect it with the Ulster and Delaware road, providing the certificate relieving the latter from extending the line on the old route be granted.

The Board is also informed by the affidavit of Samuel G. Dimmick, a director in the Ulster and Delaware road, that a financial plan has been adopted by the Ulster and Delaware Railroad Company, under which it will issue its consolidated first mortgage five per cent bonds running forty years from June 1, 1888, to the amount of \$2,000,000, secured by a mortgage upon its railroad property, real estate and franchises, and its interests in the railroad and franchises of the Hobart Branch Railroad Company, under a new lease from that company, to take effect on the surrender of the existing lease of said road; that of said bonds, \$1,396,000 are to be used to retire the \$200,000 first mortgage seven per cent bonds, and the income bonds of the Ulster and Delaware Railroad Company now outstanding, and the mortgage on its real estate at Rondout, and the floating debt of the company, and the interest of the Hobart Branch railroad and its stockholders in the existing lease from that company to the Ulster and Delaware; that the residue of the said bonds is to be used for the

purpose of improving its property and the acquisition of new and additional lines of railway when authorized by the board of directors of the Ulster and Delaware railroad, with the approval of the holders of its capital stock.

That said plan has received the written approval of the holders of all the first mortgage bonds except \$24,000, and the holders of all the income bonds except about \$50,000; that the issue of this consolidated mortgage and the bonds thereby secured has been authorized by a vote of the holders of more than three-quarters of the capital stock of the Ulster and Delaware Railroad Company, at a special meeting called for that purpose as provided by law.

That said bonds and mortgages have been executed and are ready to be issued, but that the issue thereof and the carrying out of the plan has been delayed by reason of the proceedings instituted by the town of Harpersfield; that the Ulster and Delaware railroad has thus been, by the action of said town, prevented from carrying out its plan for more than a year and has thereby sustained great pecuniary damage, and the carrying out of the plan has been imperilled.

The affidavits submitted by the company are to the effect that the routes as laid out by the old company on the one hand and the Delaware and Otsego company on the other, are in the same general direction, and terminate at or near the same point—Oneonta, and it is argued, therefore, that the building of the route on the line of the Rondout and Oswego would not be obligatory under the decision of the Court of Appeals in the case of *The People v. Rome*, Watertown and Ogdensburgh Railroad (103 N. Y., p. 95), provided the Delaware and Otsego road shall be built.

That the route of the old company for seven miles north and west of Stamford through the town of Harpersfield runs along the side of a mountain, through a barren region, with few inhabitants, and is inaccessible by the highways of the town; that the inhabitants of the village of Harpersfield and those living between Stamford and Harpersfield could as easily go to Stamford as to cross the valley and up to the high ground of the railroad as laid out; that those living in the northern part of the town of Harpersfield could as easily reach the line of the Albany and Susquehanna road as to cross the mountains and streams to the proposed route of the Rondout and Oswego.

That on the whole line of the proposed railroad in the town of Harpersfield there are not more than one or two houses, and only one road that leads to the line of railroad from the highway on the north side of the Harpersfield valley, and that the only other road leading to the line of the railroad runs from South Kortright to a point on the line between the towns of Harpersfield and Kortright, near Gaylord's store, and that there is only one place on the line of the entire road where a station could be erected, and such place is not in the town of Harpersfield, but in the town of Kortright.

The affidavit of Edward Codwise, a civil engineer, furthermore states that in three cuts within the length of 3,000 feet near North Kortright, 73,000 cubic yards of material must be removed, while on the located line of the Delaware and Otsego railroad, for eight continuous miles between Hobart and Bloomville, only 98,290 cubic feet of earth will be required to be removed. Also, that the cost of grading, masonry and bridges for the old route from Stamford to Daven-

port Centre, a distance of nineteen and a half miles, would be \$254,074.60, while the cost of doing the same work on twenty-two and a half miles, from Hobart to Davenport Centre, by way of the Delaware and Otsego line, will be \$190,207, showing that the nineteen and a half miles will cost \$63,867 more than the twenty-two and a half miles.

In favor of the new route by way of Bloomville, it is alleged by numerous affidavits, that it passes through a fertile region containing many more people than by the old route; that a connection is made between Bloomville and Delhi, the county seat of Delaware county, enabling people in the towns of Harpersfield, Davenport, Kortright, Meredith, Stamford and Bovina to reach the county town by rail, whereas, by the old route, there would be no rail connection whatever. This appears to the Board to be a very important point.

The remonstrants, on the other hand, allege that the old route of the Rondout and Oswego railroad westerly of Stamford runs through a wealthy and thickly populated country, and not through a barren and mountainous country as alleged in the affidavit upon the part of the petitioners; that the Charlotte valley commences about three-quarters of a mile northwesterly of Stamford village and runs in a northwesterly direction, so that the Charlotte valley and the Delaware valley are the nearest together at Stamford of any point, and the further one travels from Stamford the further the valleys are apart; that between the Delaware and Charlotte valleys there is a high ridge extending through the towns of Harpersfield, Kortright and Meredith in a westerly direction; that there is no place where it can be crossed as easily as upon the route of the Rondout and Oswego road through the towns of Harpersfield, while by crossing the ridge between the two valleys from Bloomville the grades are much steeper.

That the route by way of Bloomville runs through a barren and hilly section of country, more inaccessible than any portion of the old line as regards grade and distance, compared with the old route; that the Charlotte valley is a wealthy and productive farming country, and is just as extensive and valuable as the Delaware valley, and that the people of the Delaware valley are already quite well accommodated with railroad facilities by the Hobart Branch and the New York, Ontario and Western railroad.

In order to determine the merits of the respective routes, an inspection thereof was made by a member of the Board, and after a careful examination, resulting from riding over both routes, he comes to the conclusion that the new route, as laid out by way of Bloomville, would accommodate a very much larger section of country than that by way of the old route, and that the statements, as made in the affidavits submitted by the petitioner, with regard to the relative merits of the two routes, are substantiated by the facts.

It also appears, so far as the people in the Charlotte valley are concerned, that a corporation entitled "The Davenport Railroad Company," has been organized to run from the terminus of the Cooperstown and Charlotte Valley railroad, at or near Davenport Centre, through the valley of the Charlotte river to East Davenport, which road, if ever constructed, will accommodate the residents of the north part of Harpersfield and the town of Davenport as well as if the old line of the Rondout and Oswego road were constructed.

CONCLUSIONS.

For the above reasons, to wit:

That it is doubtful whether any legal obligation ever rested upon the Ulster and Delaware Railroad Company to extend its line by the route of the Rondout and Oswego road to Oneonta.

That the Ulster and Delaware has never earned any dividend on its stock, and is now even in default of interest upon its first mortgage bonds.

That it has not money wherewith to construct the line as originally laid out.

That the new line of the Delaware and Otsego road (in course of construction, by parties in the interest of the Ulster and Delaware road) will accommodate a larger territory and more people than the old route.

The Board is of the opinion that a case has been made out where it can properly certify, and it does hereby certify, that in its opinion the public interests, *under all the circumstances*, do not require the extension of the route of the Ulster and Delaware railroad on the line originally laid out by the Rondout and Oswego railroad.

XXVII.

IN THE MATTER OF THE COMPLAINT OF I. D. HENDERSON AND E. C. MUNSON
OF THE VILLAGE OF HERKIMER v. THE NEW YORK CENTRAL AND HUDSON
RIVER RAILROAD COMPANY.

July 8, 1888.

December 5th, 1888, a communication was received stating that Nicholas Woolaver, a flagman at Washington street crossing, on the New York Central and Hudson River railroad, in the village of Herkimer, had been killed on the morning of December fourth. The petitioners allege that the crossing is a very dangerous one, on account of the curve in track No. 1, at this point.

December eleventh, a letter from this Board was sent to Hon. C. M. Depew (with communication of Messrs. Henderson and Munson inclosed) in reference thereto, stating:

"An examination of the premises has been made since the accident by a member of the Board. It appears that the flagman's shanty is located between tracks 1 and 2, about fifteen feet from the crossing. This location of the shanty compels the flagman to cross track No. 1 every time he lets the gates down. It appears, therefore, to be both dangerous and inconvenient.

"The Board would like to know if there is any objection to the shanty being transferred to the north side of the freight tracks close to and east of this highway? It would appear that such location of the shanty would enable the flagman to get as good a view of the tracks as he has at present, and would obviate the necessity of his crossing the track so often.

"It also appears desirable to the Commissioner visiting the premises, that the gates on the south side of track be extended so that the bar should cover the sidewalk on the east of the highway, as it does now on the west."

A letter from Mr. J. M. Toucey, general superintendent, was received December twenty-fourth, saying:

"I do not think it would be wise to transfer the shanty to the north side of the freight tracks, as the view would be cut off of passenger trains, which run at a higher rate of speed than freight trains, and the liability of injury to people would be enhanced."

"A bar can be attached to gates to cover the sidewalk, and I will so direct."

A copy of Mr. Toucey's letter was sent to the complainants December twenty-seventh, and on December twenty-ninth, a reply was received from them saying that the proposed change promised by Mr. Toucey would not cure the difficulty; that the principal cause of danger at this point, is the curve caused by the location of track No. 1, south of the depot building.

A personal examination of this crossing was made by Commissioner Rickard, May 18, 1889, while a long freight train was passing at usual speed, and the observation verifies the statement of Mr. Toucey that it would not be wise to change location of flagman to the north of tracks, for this reason, that after the locomotive of this west-bound freight train had lapped the crossing, the view of all tracks south was shut off from the flagman, and a passenger train approaching this station from either direction, a distance of half a mile, at a high rate of speed (as by statute now allowed) without stopping, would pass over this crossing before the last car of freight train had cleared it.

At this date the extension bar to gates is not attached.

It is conceded that the crossing in question, is a dangerous one, also that at this point there is a sharp curve caused by throwing track No. 1 to the south of passenger depot building.

It is believed, therefore, that if the present passenger depot building were moved south on a line with the south rails of what is now known as track No. 1, and the removal of said track to or near its original location north of depot building, it would be a safe, desirable and economical adjustment of this matter, and would best subserve the interests of all parties concerned.

The Board so recommends.

XXVIII.

IN THE MATTER OF THE COMPLAINT OF J. HOOSE v. THE ROME, WATERTOWN
AND OGDENSBURGH RAILROAD COMPANY.

July 15, 1889.

Mr. J. Hoose, of Mexico, Oswego county, N. Y., complained in a communication addressed to the Board, dated June 5, 1889, that the Rome, Watertown and Ogdensburgh Railroad Company had charged him twenty cents per hundred on cheese shipped from Holmesville to

Syracuse, when billed through to Philadelphia, while the local rate from Holmesville to Syracuse, as shown by the published tariff rate, is but nineteen cents per hundred.

Mr. Hoose asks if a railroad has a right to charge a higher rate of freight than its published tariff rates.

Mr. Hoose further states that Holmesville has a cheese rate to New York via Syracuse and the New York Central of thirty cents; fifteen cents to the Rome, Watertown and Ogdensburgh, and fifteen cents to the New York Central and Hudson River railroad. He then asks the question, "Has the Rome, Watertown and Ogdensburgh the right to charge fifteen cents for cheese from Holmesville to Syracuse when consigned to New York, and twenty cents when consigned to Philadelphia?"

The complainant further states that the rate on cheese from Oswego to New York is twenty-five cents via the Rome, Watertown and Ogdensburgh and the New York Central and Hudson River railroad, but from intermediate points between Oswego and Pulaski the rate is increased until at the latter point it reaches thirty-five cents. In other words, that the rate increases as the distance decreases to New York. He then asks, "Has the railroad a right to charge this higher rate of freight for a shorter than for a longer haul?"

This complaint was forwarded to the Rome, Watertown and Ogdensburgh Railroad Company, and under date of June nineteenth, Mr. L. A. Emerson, general traffic manager of the road, says:

"We have a special through cheese tariff, effective May 10, 1877, to Philadelphia via different routes, Oswego, Syracuse and Utica, applying from all points on our line, Scriba to Massena Springs, Ogdensburgh, Cape Vincent, Clayton, Sackett's Harbor, Rome, Utica, and all intermediate points, applying from some ninety odd stations. The Holmesville rate and divisions are as stated by Mr. Hoose, making the through rate four cents per hundred less than a combination of the locals. The business being subject to the provisions of the act to regulate interstate commerce, traffic and tariff being issued in strict compliance with the law, we would most respectfully state that Mr. Hoose has no ground for complaint."

First. In answer to the first complaint, viz., that the published tariff rate is nineteen cents and that Mr. Hoose is charged twenty cents when cheese is billed through to Philadelphia, the Board is of the opinion that this is an unwarrantable charge.

It is very usual that a railroad should receive as its proportion of a through rate less than it receives for the local rate; the Board knows of no case, however, where a railroad's proportion of the through rate is larger than its local rate, and it deems, therefore, that when cheese is shipped to Philadelphia, Mr. Hoose should not be charged a higher rate than the published local tariff rate. Inasmuch, however, as shipments to Philadelphia are interstate shipments, the matter does not properly come within the power of the Board to redress, but is one cognizable by the Interstate Commerce Commission.

Second. It appears from Mr. Hoose's statement that the through rate from Holmesville to Philadelphia on cheese is forty cents, of which the Rome, Watertown and Ogdensburgh receives twenty, while the through rate to New York is thirty cents, of which the Rome, Watertown and Ogdensburgh receives fifteen.

Shipments to Philadelphia from Holmesville, as before stated, are interstate commerce transactions and, therefore, not within the cog-

nizance of this Board. Shipments to New York, however, by way of the Rome, Watertown and Ogdensburgh and the New York Central and Hudson River railroad, would be State shipments and come within the cognizance of this Board.

There is no violation of law in the difference in prices charged, but as a matter of equity and fair dealing to the patrons of the road the Board is of the opinion that shippers should not be charged a higher rate on the Rome, Watertown and Ogdensburgh when shipping to Philadelphia than when shipping to New York.

Third. With regard to the complaint that a higher rate is charged on cheese from points intermediate between Oswego and Pulaski to New York, than from Oswego, it raises the whole question as to whether the conditions of competition at Oswego are such as to justify the higher charge for the shorter haul than for the longer haul.

The Board will not discuss again the general principles involved in this question, but refers to New York Railroad Commissioners' Report for 1884, on *pro rata* freight bill, pages 10 to 90; A. D. & R. D. Foote and others against the Utica and Black River railroad, pages 94 and 102; also, Interstate Commerce Commission reports, case of Louisville and Nashville Railroad Company, pages 31 and 32.

It would appear, in view of the fact that there is water competition by canal direct from Oswego to New York and possibly for other reasons, that the conditions of competition are such as to justify a somewhat higher rate from intermediate points than from Oswego. Inasmuch, however, as the complainant does not allege that he is injured by this state of facts, but simply asks the question as to whether a railroad has a right to make such charges, the Board is not disposed to go further than indicated in the above expression.

XXIX.

RESIDENTS OF WATERVLIET v. THE WATERVLIET TURNPIKE AND RAILROAD COMPANY.

August 5, 1889.

The complaint was that the present position of the tracks of the road on the Watervliet turnpike, so near to the line of the houses, was dangerous, and the prayer was that the tracks be removed to the center of the street. The petition was numerously signed. The company in reply set forth that it was not within the power of the company to comply with the request of the petitioners, for the reason that under the charter of the said company and the statutes of the State of New York, in confirmation, amendment and amplification of the powers originally given to said company, it was required to locate the tracks of its horse railroad upon that portion of the roadway of the turnpike where the said tracks now are.

Subsequent investigation determined this to be the fact.

XXX.

J. H. RUSHTON v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

August 15, 1889.

The complainant alleges that the rates on boats from Canton, St. Lawrence county, his place of business, to Chicago, was two dollars and sixty cents per 100 pounds; to Boston, two dollars and thirty-six cents; to Utica, one dollar and ninety-two cents, and to Prospect, a point between Canton and Utica, two dollars and sixty-eight cents, and he charged a discrimination based on the fact that he could reach Prospect by no other route.

The reply of the road was that the complainant did not realize the difference in expense to the road in delivering his freight at a terminal point like Utica, to which he shipped many boats, as compared with a small intermediate station like Prospect, to which he might never ship another.

Subsequently the complainant informed the Board that he had adjusted the matter in dispute with the general freight agent, on the basis of the rate to Utica, and withdrawn his complaint.

XXXI.

IN THE MATTER OF THE PETITION OF RESIDENTS OF BATH AND GREENBUSH, RENSSELAER COUNTY, FOR A RECOMMENDATION TO THE BOARD THAT THE NEW YORK CENTRAL AND HUDSON RIVER, AND THE BOSTON AND ALBANY RAILROAD COMPANIES, CONSTRUCTED A HIGHWAY BRIDGE ACROSS THEIR TRACKS UPON BROADWAY, IN THE VILLAGE OF GREENBUSH, RENSSELAER COUNTY.

September 16, 1889.

This petition, signed by 100 residents of Bath, Greenbush and the town of East Greenbush, was lodged with the Board December 8, 1888. It requests the Board to recommend the erection of a substantial iron bridge over the tracks of the Boston and Albany, and the New York Central and Hudson River railroads in the village of Greenbush, at the place commonly known as the East Albany crossing; said bridge to contain two footwalks and a carriageway not less than thirty feet wide; the north approach to commence at the south line of the brick building known as the Boston House, and to continue with a gradual grade until the height of at least eighteen feet is reached above the said mentioned tracks, and thence continue south on a straight line about 650 feet over all tracks, thence to descend to the roadway of Broadway by another approach to commence thirty-five feet north of the north line of the frame building known as the Union Mission Chapel.

The petition goes on to say that the crossing complained of contains twenty distinct tracks, and is blocked at all hours of the day and night with passing trains, and "is nothing more or less than a human

slaughtering place, which demands immediate attention," and requests that the aforesaid bridge and approaches be constructed and kept in repair by the above-mentioned railroad companies.

A copy of this petition was sent to the respective railroads.

In answer thereto the New York Central and Hudson River Railroad Company, by Mr. Toucey, replied, that about a year ago the question came up, and the company had met the representatives of the two villages, and the representative of the Boston and Albany railroad; that a proposition had been made by the two railroad companies to the village authorities, by which the villages were to pay a certain proportion of the cost of the bridge, to be agreed upon; that the board of trustees of the village of Greenbush, however, under date of October 7, 1887, had declined to bear any part of the expense of building the bridge or to be liable for any damages that might occur thereby; that since receiving the above reply the matter had rested until the time of the receipt of the communication from this Board; that the railroad company was ready to negotiate with the village authorities for the construction of the bridge with a view to the villages bearing a portion of the expense; that this crossing had been where it is since the opening of the railroads, and that the villages of Bath and Greenbush had grown up mainly in consequence of the business brought to those points by the railroads; that in view of this, it seemed no more than right that the villages should bear some proportion of the cost of bridging the crossing.

The Boston and Albany railroad, through its president, Mr. William Bliss, requested a hearing on the petition of the citizens.

A public hearing, after due notice to the parties interested, was had at the office of the Board in Albany on January 15, 1889. The petitioners were represented by numerous citizens of Greenbush, and the railroad companies by Hon. Hamilton Harris, counsel, and various officers.

The petitioners contended that the numerous tracks at the crossing had been laid without authority from the trustees of the village, and had been encroachments and trespasses upon the street.

Mr. Harris, in behalf of the railroad companies, on the other hand, contended that they had had authority to lay these tracks, and that, therefore, it was but equitable that the village should bear some part of the expense of constructing the bridge.

Much discussion was had. The final outcome of the hearing was that the railroad companies should prepare drawings and estimates of the bridge, making separate estimates of the bridge proper and the cost of approaches thereto, and that they would build the bridge proper, if the village would agree to build the approaches.

Under date of February eight, the plan and drawings were submitted by the railroad companies. The estimated cost of the bridge proper was \$55,758, and of the approaches, \$20,090; total cost, \$75,848.

The plans were submitted through this office to the board of village trustees, and an answer was received from that body, dated February eighteen, to the effect "that the sense of this board be that the village stand no part of the cost for the building of the proposed bridge, or the approaches thereto."

After further correspondence and conference between Mr. Harris and this Board, the company receded from its position calling upon

the village to pay the expense of the approaches to the bridge, and finally submitted a proposition to the village trustees on June 11, 1889, to the effect that the railroad companies would erect the bridge over their tracks if the village would assume the damages to abutting property holders.

This proposition was again rejected by the trustees of the village upon the ground that the railroad companies had created the nuisance, and that the village was in no way bound to pay for abating it. Furthermore, in the resolutions, the trustees intimate that they are willing to close the surface of the street beneath the bridge, and hand over to the railroad companies that land for their free use for switching and yard purposes generally. This, the trustees of the village claim, would be abundant contribution upon the part of the village to the railroad companies for building the bridge.

In the meantime, and possibly in anticipation of this action by the village trustees, Mr. Harris had informed this Board that the engineers of the railroad companies were at work to alter the proposed northern terminus of the bridge so as to avoid the five or six buildings, the possible damages to which were the subject of contention.

On June eighteenth, after receiving a notice of the refusal of the village to bear these damages to abutting property owners, the Board addressed the following communication to Mr. Harris:

"ALBANY, June 18, 1889.

"HON. HAMILTON HARRIS, *Counsel New York Central and Hudson River Railroad Company*:

"SIR.—The Board herewith transmits a copy of a communication from the trustees of the village of Greenbush, dated June 15, 1889, inclosing a copy of resolutions passed by that body in reference to the proposed bridge over the tracks of the Boston and Albany and Hudson River roads.

"It appears that the village authorities decline to assume the pecuniary responsibility for damages to abutting property holders from building the bridge.

"At the last hearing before the Board, viz., April nine, you stated that in anticipation of the village declining this responsibility, your engineers were at work to alter the northern designation of the bridge with a view of avoiding the buildings and property that would be damaged by its erection.

"The Board would be glad to receive drawings and plans of the bridge as modified, and also an expression of the Boston and Albany, and New York Central railroads' intentions as to building the same.

"You will observe that the inference to be drawn from the resolutions of the trustees of the village is that the street under the bridge, after the erection of the same, will be given up wholly to the railroads.

"The Board desires a reply at a date not later than July the first."

No reply whatever was received, or notice taken, of the above communication. Upon August first, the Board directed another communication to Mr. Harris, calling attention to that of June eighteenth, and concluding with the following words: "The Board proposes to adjourn until the first week in September. Should an answer not then be received, the Board will be obliged to make its recommendations in the premises without further conference with the railroad company."

No reply has been received, and the Board, therefore, proceeds to make its recommendations as indicated in the above letter.

Pending the negotiations, and at the hearing in March, an order was made by the Board requesting the railroads on the one hand, and

the petitioners upon the other, to submit briefs to the Board setting forth their respective arguments and claims in the case.

A comprehensive and able brief, signed by H. W. Bell, chairman of the citizens' committee, was filed by the petitioners. A copy of the same was transmitted to Mr. Harris, and to Mr. Bliss, president of the Boston and Albany, and Mr. Depew, president of the New York Central. No brief whatever was filed on behalf of the railroad companies, nor was any notice taken of the brief filed by the petitioners.

Mr. Bell, in his brief, gives the history of the organization of the railroads, which finally have become consolidated into the New York Central and Hudson River on one hand, and the Boston and Albany on the other.

He shows that what is now Broadway in the village of Greenbush was at one time an incorporated turnpike; that the turnpike in due time reverted back to the people of the State of New York, and that it became a public highway; that that portion of it within the village of Greenbush finally came under the control of the village authorities; that the various laws creating the railroad corporations and authorizing them to lay down tracks provided that "whenever it shall be necessary for the construction of their single or double track railroad or way to intersect or cross * * * any highway * * * the corporation shall restore * * * the road or highway thus intersected or used to its former state, or in a sufficient manner not to have impaired its usefulness." (As to Boston and Albany railroad, see chapter 292, Laws 1834, as amended by chapter 262, Laws 1836, and chapter 917, Laws 1869. As to New York Central and Hudson River railroad, see chapter 216, Laws 1846; chapter 162, Laws 1832, and chapter 917, Laws 1869.) This provision was incorporated in the General Railroad Act (chapter 140 of the Laws of 1850), and appears, as before stated, in all the acts of consolidation leading to the present Boston and Albany railroad, and to the New York Central and Hudson River railroad.

Mr. Bell then claims that the trustees of the village of Greenbush have never given the railroad companies the right to lay down these additional tracks which have so obstructed Broadway, and that "a careful search of the village records shows that they (the railroads) did not even go through the empty form of asking it." That he has carefully searched the records from 1868 to 1878, the period during which most of the extra tracks were laid, and the records fail to show that such permission was ever asked for or granted; that the only mention the village records show of this crossing during the ten years mentioned, is, that at a meeting of the board of trustees, held November 2, 1870, one of their number presented a resolution requesting the railroad companies to place a flagman upon this crossing, which resolution was adopted, but the companies have never paid any attention to the request, if they were ever notified of it.

From the above statements, the Board is of the opinion that a case is made out by the petitioners against the railroads. While the latter undoubtedly were authorized to lay down single or double tracks over this crossing, they have presented nothing to show that they were ever authorized to lay these additional tracks. The Board finds after

an inspection that the crossing is entirely obstructed and unsafe to cross at any time.

The conclusion is inevitable that the railroad companies have failed to conform to that provision of their charters, and acts amendatory thereof, finally incorporated in subdivision 5 of section 28 of the General Railroad Act (chapter 140 of the Laws of 1850), requiring them to restore a highway intersected or touched "to its former state, or to such state as not unnecessarily to have impaired its usefulness," but on the contrary, have rendered the crossing in question worse and worse, until finally it is absolutely impassable.

There is no remedy possible now but the construction of a bridge. That this obligation rests upon the railroads at their own expense, appears to have been clearly proved.

CONCLUSIONS.

The Board, therefore, recommends that the New York Central and Hudson River, and Boston and Albany Railroad Companies, at their joint expense, construct an iron bridge over their tracks now laid upon and obstructing the street known as Broadway, in the village of Greenbush, said bridge to have a roadway not less than twenty-two feet in width, with sidewalks on each side not less than six feet in width. Said bridge to allow not less than twenty feet head room above rail, and the grade of the approaches thereto not to exceed seven feet in a hundred.

Second. That the village trustees close that portion of the street beneath the bridge, when constructed, and permit the same to be used by the railroad companies for yard and switching purposes.

APPLICATIONS FOR INCREASE OF CAPITAL STOCK.

I

IN THE MATTER OF THE APPLICATION OF THE UNION ELEVATED RAILROAD COMPANY OF BROOKLYN FOR THE APPROVAL OF THE BOARD FOR AN INCREASE OF CAPITAL STOCK FROM \$1,000,000 TO \$9,040,200, FOR THE PURPOSE OF RETIRING AN EQUAL AMOUNT OF INCOME BONDS.

March 12, 1889.

The preliminary steps required by section 9 of the General Railway Act were duly taken, and the stockholders, at a meeting held on the 10th day of January, 1888, unanimously resolved to increase the stock to the above figures.

The application was duly made to this Board, but it was refused at the time for reasons then given in a report which will be found on page 151 of volume 1 of the report of this Board for 1888, to which attention is directed. Since a further application has been made to the Board for a reconsideration of its determination, which at the time it said it would entertain for cause shown.

The financial status of the company is as follows:

Capital stock now outstanding	\$1,000,000
First mortgage bonds authorized to be issued	7,000,000
Second mortgage income bonds authorized to be issued,	2,500,000
Convertible income bonds authorized to be issued	8,040,000

It appears from statements made to the Board that the railroad company contracted with the construction company to issue the entire amount of the above securities for the construction and equipment of the road complete. The construction company agreed furthermore to pay all damages to abutting property owners.

The conditions of the first mortgage were that bonds might be issued to the amount of \$550,000 per mile for each mile of fully constructed road. The construction company was to receive second mortgage bonds to the amount of \$185,000 per mile of road completed, with the proviso that in case the construction company should receive an amount of first mortgage bonds to exceed \$500,000 a mile, an amount of the second mortgage bonds equivalent to such excess should be canceled, so that the amount of the first and second mortgage bonds should not be more than those of the Brooklyn Elevated Railroad Company, i. e., \$685,000 a mile. In addition to the above first and second mortgage bonds, it was agreed that capital stock to the amount of \$81,967.21 per mile of completed road, and income convertible bonds to the amount of \$659,032.79 per mile for each mile of completed road, should be issued to the construction company.

At the meeting of the stockholders, when the increase of stock was determined upon, the following resolutions were unanimously passed:

"Whereas, this company, in order to secure the construction and equipment of its various roads, has been obliged to contract to issue in addition to its capital stock of one million dollars (\$1,000,000), bonds to the amount of six hundred and fifty-nine thousand thirty-two dollars and seventy-nine cents (\$659,032.79) a mile for each mile of its roads under construction, payable in thirty (30) years, but convertible into its capital stock; and

"Whereas, it is for the interest of the company that the obligation of such bonds should be removed by the substitution of stock; and

"Whereas, an increase of the capital stock is necessary to be used to accomplish this purpose; it is therefore

"Resolved, That the capital stock of this company be increased from the sum of one million dollars (\$1,000,000), or eighty-one thousand nine hundred and sixty-seven dollars and twenty-one cents (\$81,967.21) per mile for each mile of its roads, the construction of which has been contracted for, to the sum of nine millions forty thousand and two hundred dollars (\$9,040,200), or seven hundred and forty-one thousand dollars (\$741,000) a mile for such roads; such capital stock to consist of ninety thousand four hundred and two (90,402) shares of the par value of one hundred dollars (\$100) each; provided, however, that the written approval of the Board of Railroad Commissioners to such increase shall be obtained; it is further

"Resolved, That the stock composing such increase shall be only issued to the Central Trust Company of the city of New York, to be exchanged by it for the convertible bonds above mentioned; that such stock shall be held by such trust company pending the construction and equipment of the roads of this company, the construction whereof is now contracted for, and shall only be countersigned and issued by it as each section of the said railroad is completed, and at the rate of six hundred and fifty-nine thousand thirty-two dollars and seventy-nine cents (\$659,032.79) a mile for each mile composing such section. Until such stock is so countersigned and issued it will not be entitled to participate in any dividends that may be earned or paid upon the capital stock of this company, nor shall any of it be voted upon at any election thereof."

This Board has invariably declined to approve an additional issue of stock where the outstanding obligations of the company have already been in excess of the cost of construction and equipment, unless the stock to be issued was subscribed for in good faith at par and the proceeds thereof intended for further construction or equipment. The case of the issue of stock to provide for the withdrawal of bonds already outstanding has not been heretofore before the Board. The Board has hesitated somewhat to approve of such an issue for the reason that it clears the way for a further issue of bonds. In this case, however, the company has addressed the following communication to the Board since its determination hereinbefore alluded to:

"In order that you may feel assured that your consent to the increase of the capital stock of the Union Elevated Railroad Company, upon the application now before your Board, will not be used as a basis for a further issue of income bonds or other obligations, the

undersigned hereby guarantee that if such consent be granted that the Union Elevated Railroad Company will not issue any further income bonds, and that it will not issue any further bonds of any kind other than those authorized by its present mortgages, unless forced to do so to meet some financial exigency which can not now be foreseen."

This is signed by Messrs. Wingate & Cullen, and Messrs. Hoadley, Lauterbach & Johnson, attorneys for the Union Elevated railroad. It will thus be seen that the company has promised not to issue any further bonds except upon the conditions expressed.

The exchange of the present income convertible bonds for stock will not increase the outstanding obligations, but will, as the Board is assured, facilitate the consolidation of the Union Elevated railroad with the Brooklyn Elevated railroad, its present lessee.

It would also appear that it will enable the bondholders who may desire to exchange their bonds for stock, to have a voice in the management of the road, which otherwise they could not do.

Inasmuch as the charter of the road restricts it to a charge of five cents for each fare, the public could suffer no hardship from the claim upon the part of the road to charge a greater fare under the pretended right of earning a larger percentage upon its capital. Furthermore, after the consolidation shall have taken place, a single fare of five cents would carry a passenger on any portion of the lines of these elevated railroads. The Board is informed that at present such charge is only made by the management, but that the companies have a right to charge a double fare where a transfer is made from one road to the other. A consolidation, therefore, under which this right would cease might be of considerable value to the traveling public. The Board is informed that probably a consolidation is impossible unless this increase is allowed and the bonds exchanged.

The Board can see no abuse likely or possible to arise in consequence of this transfer of securities unless it might be said that this large amount of stock offers a greater opportunity for speculation than is possible with the smaller sum. While there may be some weight in this, it appears to be more than counterbalanced by the advantages hereinbefore set forth, likely to occur from the transfer and consolidation.

For the above recited reasons, the Board deems that it can without detriment to public interests, and it does hereby approve of the increase of the capital stock of the Union Elevated Railroad Company from \$1,000,000 to \$9,040,200, upon the condition that such stock when issued is to be exchanged for convertible income bonds at present outstanding and for no other purpose whatever.

II.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF THE CAPITAL STOCK OF THE COMPANY FROM \$10,000,000 TO \$12,000,000, FOR THE PURPOSE OF EXCHANGING THE \$2,000,000 ADDITIONAL STOCK FOR A LIKE AMOUNT OF THE STOCK OF THE BROOKLYN AND MONTAUK RAILROAD COMPANY HELD UNDER LEASE.

March 20, 1889.

The preliminary steps required by section 9 of the General Railroad Act have been taken by the directors and stockholders of the company. At a meeting of the stockholders held February the 23d, 1889, it appears that there was represented in person or by proxy 159,803 shares of the stock of the Long Island Company (out of a total of 200,000 shares), all of which voted in the affirmative.

Pursuant to powers granted to the Long Island railroad by special statute and by the general laws of the State, the Long Island company became the lessee of the railroad and franchises of the Brooklyn and Montauk Railroad Company for the term of fifty years from October the 1st, 1879, and now holds and operates the same under a contract of that date and certain amendments thereof.

Chapter 254 of the Laws of 1867, as amended by chapter 503 of the Laws of 1879, provides that "any railroad corporation created by the laws of this State or its successors being the lessee of the road of any other railroad corporation may take a surrender or transfer of the capital stock of the stockholders or any of them in the corporation whose road is held under lease and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations."

The authorized capital stock of the Brooklyn and Montauk Railroad Company is \$2,000,000, of which \$1,100,000 is preferred and \$900,000 is common stock. The reports of the company show that twenty-four shares of common and thirty-six shares of the preferred stock remain unissued, but they may be called for at any time under the plan of reorganization under which the company was organized.

Under this state of the law and the facts, the Long Island Railroad Company have submitted to the holders of the preferred and common stock of the Brooklyn and Montauk Railroad Company a proposition for the surrender or transfer of their stock, which the Board is informed by the counsel of the Long Island Railroad Company has been accepted by all of the holders of the said preferred and common stock except about 375 shares, representing \$37,500 par value out of the \$2,000,000, the holders of the outstanding stock having the option to accept the proposition at any time on the same terms and conditions.

To complete the surrender and transfer of the Brooklyn and Montauk stock and the issue of additional Long Island stock in exchange therefor, it becomes necessary to increase the capital stock of the Long Island Railroad Company two millions of dollars.

Chapter 368 of the Laws of 1867 makes applicable to the Long Island Railroad Company, the provisions of section 9 of the General Act with regard to the increase of capital stock.

The acquisition of a leased or connecting line of road pursuant to the express authority of the charter and in conformity to law, is obviously one of the direct means to completing and operating the system of roads contemplated by the charter, so that the present case is one where the capital stock of the company, in the language of the statute, "is found to be insufficient for constructing and operating its road" in every substantial sense, taking together the special charter of the company and this provision of the General Railroad Act. The Board deems, therefore, that the increase of stock for the purpose of acquiring the leased line comes within the provisions of section 9.

In view of the above recited facts, the Board is of the opinion that it can with propriety, and it does hereby approve of the increase of the capital stock of the Long Island Railroad Company, from \$10,000,000 to \$12,000,000, with the understanding that the increased stock of \$2,000,000 is to be exchanged for a like amount of the stock of the Brooklyn and Montauk Railroad Company, and that the stock of the latter, when exchanged, is to be canceled.

III.

IN THE MATTER OF THE APPLICATION OF THE SOUTH BEACH RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF ITS CAPITAL STOCK FROM \$50,000 to \$100,000.

April 2, 1889.

The preliminary steps required by section 9 of the General Railway Act have been taken by the directors and stockholders of the company.

It appears from the papers filed with the Board that no part of the railroad has yet been constructed; that at the inception of the enterprise it was intended to construct a road about one mile in length; that subsequently it was determined to increase the length of the line to three miles of double track. An affidavit has been lodged with the Board, dated the twenty-first of March, estimating the cost of such three miles, with equipment, real estate, etc., necessary, at \$145,000.

At a meeting April the second the president, Mr. F. H. Skeele, informed the Board that it was in contemplation of extending still further so as to make the length of the line about four miles of double track.

The entire amount of the original capital stock, \$50,000, has been subscribed. The Board is led to understand that the additional \$50,000 will be subscribed as soon as the approval of the Board to increase to that amount is given.

The Board deems that the proposed amount of stock, viz., \$100,000, is not too much for such an enterprise, and hereby approves of the proposed increase of stock from \$50,000 to \$100,000.

IV.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO EAST SIDE STREET RAILWAY COMPANY FOR THE APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$100,000 TO \$250,000.

July 23, 1889.

An application was duly filed by this company in August, 1888, for permission to increase its capital stock from \$100,000 to \$250,000, in conformity with section 9 of the General Act, being chapter 140 of the Laws of 1850.

The application was granted by the Board, August 6, 1888, for reasons therein set forth. (See N. Y. R. R. Com. R., Vol. 1, page 156.)

The Board is now informed that said railroad having been formed under a special act, viz., chapter 774 of the Laws of 1870, wherein no provision is made for an increase of its capital stock, even with the consent of the Board of Railroad Commissioners, that a question has arisen whether under such circumstances the permission is available.

An amendment was passed to section 9 of the General Act by the Legislature of 1889, being chapter 426 of the laws of that year, in which the following words in italics are inserted, "In case the capital stock of any railroad company formed under this act, *or organized and existing under the laws of this State,*" etc.

This amendment gives authority to the railroad in question to increase its capital stock with the consent of the Board of Railroad Commissioners. Such consent is hereby given, i. e., to increase its capital stock from \$100,000 to \$250,000, for the reasons as stated in the report of the Board hereinbefore alluded to, dated August 6, 1888, which is made a part of this report.

V.

IN THE MATTER OF THE APPLICATION OF THE ROCHESTER AND HONEOYE VALLEY RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD FOR AN INCREASE OF ITS CAPITAL STOCK FROM \$320,000 TO \$500,000.

August 1, 1889.

The preliminary steps required by section 9 of the General Railroad Act, have been taken by the stockholders of this corporation.

The company was organized January 14, 1888, for the purpose of constructing a railroad from the city of Rochester to the village of Honeoye Falls, a distance of between sixteen and seventeen miles. The capital stock was fixed at \$320,000.

At the stockholders' meeting, held June 22, 1889, to vote on the proposed increase, it appears there were but one hundred and seventy-five (175) shares of stock represented, and, so far as anything appears before the Board, this is all there has been subscribed — only about sufficient to meet with the requirements of statute. The Board is informed, however, that reliable parties stand ready to supply the funds necessary to construct and equip the road, provided the permission to increase its capital stock is granted.

Since the organization of the company, estimates of the cost of construction point to the likelihood of the road costing not less than

\$500,000. Affidavits to this effect from trustworthy engineers, including James E. Childs, Esq., formerly general manager of the New York, Ontario and Western railroad, and the Hon. Elnathan Sweet, formerly State Engineer, have been lodged with the Board.

This increased cost is attributed to the necessity of purchasing that strip of land known as "The Island," for the purpose of station-houses, terminal facilities, etc., and to the requirements of the Superintendent of Public Works as to the construction of that portion of road along the line of the Genesee river feeder, such portion being upon State property.

For the above reasons the Board deems that it is justified in giving its approval, and does hereby approve of the increase of the capital stock from \$320,000 to \$500,000.

VI.

IN THE MATTER OF THE APPLICATION OF THE CROSTOWN RAILROAD COMPANY OF ROCHESTER, N. Y., FOR THE APPROVAL OF THE BOARD TO AN INCREASE OF ITS CAPITAL STOCK FROM \$50,000 TO \$150,000.

September 25, 1889.

The preliminary steps required by section 9 of the General Railroad Act have been regularly taken in this application.

At a meeting of the stockholders held at the office of the company on the 31st day of August, 1889, 470 shares of stock, out of a total of 500, voted in favor of the increase. No opposing votes.

It appears from affidavits of John N. Beckley, acting secretary of the company, and William C. Gray, a civil engineer, that the total length of the line of said railroad, as described in its articles of incorporation, is five miles, the franchise to construct which has been granted by the city authorities. It further appears from the affidavit of Gray, above alluded to, that there is a proposed addition to or extension of the line of 3,750 feet. George E. Mumford, president of the railroad, in a second affidavit, dated the twenty-first of September, affirms that there is still further extension in contemplation which, together with the previous extension noted, makes a total proposed extension of about five miles. The affidavit of Gray further states that it is proposed to build this autumn a few feet over three miles of double track, or a little over six miles of single track.

The estimated expense of construction and equipment of the portion to be built this fall is stated by Gray to be \$147,967.95. In the affidavit of Mr. Mumford it is stated that there are to be added to this sums, either expended or to be expended, the details of which are given, aggregating \$21,414; making the total amount to be expended this autumn, \$169,381.95.

It is further estimated that the three miles of double track covered by the franchise granted, to be built next spring, will cost not less, including increased equipment required, than \$20,000 per mile of single track, of \$120,000. The total cost of the road, as thus estimated, would then be \$289,000. For this expenditure the stock is to provide \$150,000, the company issuing it at not less than par.

Mr. Mumford, in his affidavit of September the twenty-first, informs the Board that it is proposed to submit to the stockholders a proposition to execute a mortgage upon the road for \$300,000; that the condition of the mortgage will be that the bonds to be issued shall not exceed in the aggregate \$12,000 per mile of track actually constructed up to and including the six miles of track first constructed, including equipment, power station, car-house, etc., and that upon the extensions of the line beyond such six miles the bond issue shall not exceed \$10,000 per mile of track constructed. Under the provisions of this agreement, the amount of bonds to be issued upon the 6 1-21 miles of single track proposed to be built this fall would be \$72,280. Upon the three miles of double track, of six miles of single track, to be built next spring, the issue would not exceed \$60,000.

The total issue, therefore, of securities upon the five and three-quarter or, say, six miles of double track road would be stock, \$150,000; bonds, \$138,280; total securities proposed to be outstanding, \$288,280; to cover an estimated cost of construction and equipment of \$289,000.

It is to be noted that the road under the security of a \$300,000 mortgage, would have a balance of \$167,720 of bonds which it might issue. The Board is informed, however, that it is not proposed to issue these bonds except upon the completion of extensions now in contemplation but for which no franchises have been granted, and not to exceed the amount of \$10,000 per mile of track constructed. It was explained to the Board by Mr. Briggs, representing the corporation, that this mortgage was provided now to secure these bonds, so that at the time it was necessary to have them the road would not be required to issue second mortgage bonds which it might have great difficulty in negotiating.

CONCLUSIONS.

In view of the above facts the Board deems that it is justified in approving, and does hereby approve, of the increase of the capital stock of the Crosstown Railroad Company from \$50,000 to \$150,000, with the condition, however, which is made part of this approval, that the company will not issue more bonds than at the rate of \$12,000 per mile of track first constructed, and at the rate of \$10,000 per mile of track subsequently constructed.

VII.

IN THE MATTER OF THE APPLICATION OF THE SOUTH PARK RAILROAD COMPANY OF ROCHESTER, N. Y., FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS TO AN INCREASE OF CAPITAL STOCK FROM \$30,000 TO \$100,000.

September 25, 1889.

The preliminary steps required by section 9 of the General Railroad Act have been regularly taken in this application.

At a meeting of the stockholders held at the office of the company on the 31st day of August, 1889, 285 shares, out of a total of 300, voted for the proposed increase. No votes were cast against it.

It appears from an affidavit of William C. Gray, that the total length of the line of said railroad, as described in its articles of incorporation, is three miles; that the proposed additions to or extensions of the line are in the aggregate about 5,000 feet. It appears from the affidavit of George E. Mumford, president, dated September 21st, that there is a considerable further extension of line of the company in addition to that described by Gray, aggregating some six miles in all.

It is proposed by the company to build this fall two miles of road, or four miles of track, the expense for construction and equipment of which is estimated by Mr. Gray to be \$104,563.96. In addition to the above, Mr. Mumford, the president, in the affidavit dated September, the 21st, affirms that \$9,100 has been or will be expended, making the total cost of road to be built this fall, \$113,663.96.

It is estimated that the two miles of double track, or four miles of single track, covered by the franchise granted, to be built next spring, will cost not less, including increased equipment required, than \$20,000 per mile of single track, or \$80,000. This would make the total cost of road and equipment, as covered by the franchise, \$193,663.96. To meet this expenditure, the proposed increase of stock to \$100,000, at par, will provide \$100,000. The Board is informed in the affidavit of Mr. Mumford that it is proposed to issue bonds, at the rate of \$12,000 per mile, on the first four miles of single track built, amounting to \$48,000, and bonds to the amount of \$10,000 per mile, on the four miles subsequently to be built, amounting to \$40,000. There will thus be securities outstanding, as follows: Stock, \$100,000; bonds, \$88,000; total, \$188,000.

Mr. Mumford further informs the Board that it is proposed to submit a proposition to the stockholders to execute a mortgage upon the property of the road for \$200,000, to secure the issue of bonds. The case is similar to that of the Crosstown railroad, just considered. The terms of the mortgage are to be that bonds, not exceeding \$12,000 per mile of track, are to be issued upon the first four miles actually constructed, and not exceeding \$10,000 per mile upon the track afterwards constructed. The excess of the bonds authorized to be issued under the mortgage, is to be used for the construction of extensions hereafter to be made.

CONCLUSIONS.

In view of the above facts, the Board feels that it is justified in approving, and it does hereby approve, of the increase of the capital stock of the South Park Railroad Company from \$30,000 to \$100,000, with the condition, however, which is made part of this approval, that the company will not issue bonds more than at the rate of \$12,000 per mile upon the first four miles of track constructed, and not more than at the rate of \$10,000 per mile upon track thereafter constructed.

APPLICATIONS FOR CHANGE OF MOTIVE POWER.

I.

IN THE MATTER OF THE APPLICATION OF THE THIRD AVENUE RAILROAD COMPANY OF NEW YORK CITY FOR THE APPROVAL OF THE BOARD, OF A CHANGE OF MOTIVE POWER FROM HORSES TO CABLE.

September 30, 1889.

A notice of intention to present this application was received by the Board July fifteenth, from Edward Lauterbach, Esq., counsel of the road. A public hearing was set down at the Chamber of Commerce in New York city, at 10 A. M., July twenty-third. Notice of the same was sent to the mayor, president of the Board of aldermen, commissioner of public works, corporation counsel, and wide notice was given by advertisement in several newspapers.

At the hearing the railroad company was represented by its president, Lewis Lyon, by various employees, and by Edward Lauterbach, Esq., counsel. The city authorities were represented by D. J. Dean, Esq., assistant corporation counsel. Numerous citizens representing various interests, such as different motive powers, were present.

The act under which this application is made, being chapter 531 of the Laws of 1889, amends section 12 of chapter 252 of the Laws of 1884, i. e. the General Street Railroad Act, and provides as follows:

"§ 12. Any street surface railway company, may in any case, operate any portion of its railroad by cable or electricity, or by any power other than locomotive steam power, instead of by animal or horse power, which may be approved by the State Board of Railroad Commissioners and consented to by the owners of one-half in value of the property bounded on that portion of the railroad as to which a change of motive power is proposed; and in case the consent of the property owners can not be obtained, then the determination of three disinterested commissioners, appointed by the general term of the Supreme Court, in the department in which said railroad is located, in favor of such motive power, confirmed by said court, shall be taken in lieu of the consent of said property owners. The provisions of sections three, four, five and six of the act hereby amended shall apply so far as applicable to such consents of said property owners and to the proceedings for the appointment and determination of said commissioners and the confirmation of said determination. It shall be lawful for any such railroad company to make any changes in the construction of its road or road-bed at any time rendered necessary by a change in its motive power."

The application of the company is a document of considerable length. It sets forth that due action was taken by the directors and stockholders authorizing this application to be made; that the consents of the owners of more than one-half in value of the property bounded on the streets, avenues and highways on which such change is proposed to be made have already been obtained as provided by

law and are filed in the office of the clerk of the county of New York. An affidavit of the secretary is annexed to the application, in which it is stated that the aggregate value of such property, the owners of which have signed their respective names as aforesaid, amounts to \$28,011,488 out of a total valuation of \$43,597,598, assessed by the commissioners of taxes and assessments, for the property situated upon and along said portion of the route of this company.

The application then states that under the authority of chapter 209 of the Laws of 1883, the motive power of that portion of the route of the Third Avenue Railroad Company on Tenth avenue and One Hundred and Twenty-fifth street, has been changed from horse to cable system; the Tenth avenue section—three miles—having been built between June, 1884, and August, 1885, and the One Hundred and Twenty-fifth street section between May and December, 1886; that since December, 1886, the cable system has been in successful operation along the entire route of the One Hundred and Twenty-fifth street line and Tenth avenue line, the length of which is five and a half miles, or about two-thirds of the length of the Third avenue line in respect of which this application is made. The construction is then described as follows:

"The system used upon the One Hundred and Twenty-fifth street line is known as 'The Duplicate Cable System,' the principal characteristic of which is that it has a double line of cables running side by side in its conduits, and that while one of the cables is working the other lies in reserve, ready to be called into operation at a moment's notice, should anything disable the first. The machinery is so arranged that the load can be easily and quickly transferred from the one cable to the other, and the grips of the cars are made double, so as to take hold of either of the ropes, as occasion requires. This method not only insures the uninterrupted operation of the road, but also affords meanwhile an opportunity for a careful inspection of either rope and the repairing thereof, when necessary. If a break occur anywhere in the system, the duplicate cable immediately is made to take up the work of the disabled one, or a duplicate engine, if the trouble be there, immediately does service for its mate.

"The cable road-bed has a frame-work of iron, with concrete forming the sides and bottom of the conduit. These transverse trusses are placed five feet apart, with the slot and track rails bolted to them. The slot rail forms the sides of the longitudinal opening into the conduit and is held firmly in place by a tie-rod connecting the same with the outer edge of the cast-iron riser of the truss. At intervals of thirty-five feet, carrying pulley vaults are provided. These extend on the One Hundred and Twenty-fifth street section from one track to the other, and are about four feet six inches deep on the east track, and five feet deep in the center of the street, and two feet six inches wide, with six and eight inch concrete walls. A cast-iron frame forming a man-hole is placed between the tracks, over these vaults, and in the bottom is a cess-pool. A six-inch sewer pipe leads from one vault to the other, and at suitable intervals connection is made with the city sewer, securing perfect drainage that can not be affected by any dirt that may accumulate in the conduit.

"The carrying pulleys at the carrying pulley vaults are bolted to the yokes to support the carrying pulley frames. They are sixteen inches in diameter over flanges and have one-half inch steel wire arms."

The application then describes at length the grip with the attachment enabling the cable to be thrown entirely out thereof in case of the jaws of the grip failing to work.

The building and machinery containing the motive power of the One Hundred and Twenty-fifth street railroad, situated on the east side of Tenth avenue, having a frontage of one block, is then described. The latter substantially consists of two independent 28x48 Wright engines, arranged to be worked together or independently as may be required. Suitable wheels, pulleys and gearing are constructed to operate the cables.

The application then goes on to state:

"Cars so operated can readily travel at the average rate of fifteen miles, or they can be made to press slowly, and inch by inch make their way through a crowd, in sympathy with all its movements and instantly responsive to the touch of the grip. By reducing the grip pressure on the cable, the cable slips along and the car takes a speed between that of the cable and complete rest, and, owing to the solid road-bed of iron and concrete, there is an utter absence of the jerk and shakiness incident to the motion of horse cars under similar circumstances.

"The One Hundred and Twenty-fifth street portion of this line extends through the center of Harlem, one of the most populous portions of this city, and the percentage of accidents causing personal injuries has been less there, if anything, than the percentage upon any portion of similar length of the Third avenue line now operated by horse power. * * *

"The advantages as a system of cable traction over horse power are manifold, thus:

"In the cable system the steep grades are as easily traversed by the cars as in the case of a perfect level; and the power exerted by cars in descending grades, is in a large measure used for assisting the ascending cars, instead of being dissipated and lost.

"The cars can be stopped or slowed with the cable system at any point on the line and started with promptness, without the jerk attendant upon similar action in the case of horse cars.

"The average speed of the division of the cable operating through crowded portions of the city can be maintained at the lowest speed desired, thus putting an absolute check on drivers or gripmen from going faster, a result impossible with horse power.

"Any number of cars desired may be put upon the track, with power adequate to haul them, and this consideration has important application on extremely hot days, when horses are incapacitated by heat, in times of epidemic when they are unable to work at all, and in time of snow, when ability to run cars and plows as frequently as desired, prevents the possibility of a blockade which otherwise would occur.

"The cars, moreover, average much better time than horse-cars, on account of their advantage of starting and stopping quickly. This average gain varies much with the condition of traffic, but when fre-

quent stops are necessary, it has been estimated to amount to fully thirty per cent, and with fewer stops to greatly exceed this estimate.

"With this system the presence of stables for horses (the horses employed on the Third avenue line exceed 1,800 in number), is done away with, and with the absence of horses from the track, cleanliness along the whole route of the company is secured. * * *

"The conditions of the Third avenue line of this company for the use of cable power are even superior to that of the One Hundred and Twenty-fifth street line, the unquestionable success of which has been referred to. This road (Third avenue) is a straight line eight miles long and with scarcely any curve in its entire length. * * *

"Again, the existence of a Third avenue elevated railroad immediately above the tracks of this company along the whole of its line, with the exception of a few blocks at either end gives this line the most unobstructed route for its major portion of any railroad in the city. For the presence of the line of pillars on either side of the company's tracks forms in the center of the avenue a tunnel-like structure which teams and vehicles, for obvious reasons, alike avoid, and on the other side leaves sufficient room for wagons to pass.

"The precise system to be adopted by the company will be one either similar to that already in use upon One Hundred and Twenty-fifth Street railroad, or one equally efficient and embodying every improvement which experience and subsequent invention have developed, but no change will be adopted that will in any respect enlarge the space in the roadway intended to be occupied by the cable construction beyond the dimensions herein set forth.

"In the actual construction of a cable road on Third avenue the road would be divided into three sections, as follows: Section No. 1 to begin at Third avenue and One Hundred and Thirtieth street and to extend to the company's present depot at Sixty-fifth street. Section No. 2 to begin at said depot and to extend to Sixth street. Section No. 3 to begin at Sixth street and to extend to the present terminus of the Third avenue railroad at Ann street and Broadway.

"The main driving plant, machinery, steam engines with equipment, would be located in the present Sixty-fifth street depot, and would furnish the motive power for sections Nos. 1 and 2, while section No. 3 would be supplied with power from an independent plant, located near the lower end of section No. 3.

"Beginning at the northern terminus of section No. 1 there would be placed a vault of sufficient size to accommodate two end sheaves from ten to twelve feet in diameter placed horizontally, together with two forty-eight inch elevating sheaves or some other suitable mechanical device, to throw the cable into the grip. These wheels or sheaves to be kept as near the surface of the street as possible, but with sufficient covering over them to safely accommodate the heaviest trucking. At this point there would also be placed a cable switch to transfer the cars from one track to the other, and also the switches and tracks to admit the running of the cars into the company's other depot for this line at One Hundred and Twenty-ninth and One Hundred and Thirtieth streets and Third avenue.

"In front of the depot at Sixty-fifth street there would be built a vault of sufficient size to accommodate the necessary outgoing and incoming cables for sections Nos. 1 and 2 with elevating sheaves or

other mechanical devices for each, together with the necessary tracks and turnouts for carrying the cars into the same.

"At Sixth street there would be placed a vault to receive the necessary ten and twelve-foot sheaves to accommodate the lower loop of the cables of section No. 2 and the upper loop of the cable of section No. 3, together with the elevating sheaves or other mechanical devices for taking up the cables and releasing the same.

"In front of the power-house, to be located as above indicated for section No. 3, there would be a vault of sufficient size to accommodate the outgoing and incoming cables.

"At the lower terminus of section No. 3 there would be placed a vault of sufficient capacity to take two ten or twelve-foot sheaves placed horizontally together with the necessary elevating sheaves or other mechanical devices, as also a switch and such other terminal facilities as are necessary to effect the handling of cars at that point.

"At different points of the road there would be placed switches for the transfer of cars from one track to the other, so as to avoid a stoppage of traffic in case by reason of fire on the line of the road, or for other reasons, the street should become obstructed.

"From some point below Chatham square it is proposed to keep the auxiliary or second cable continually in motion at about one-half the speed of the working cable, so that in case of possible accident to the latter the grip could be instantly made to drop the same and to take up the auxiliary, the speed of which, by communication with the station, would immediately be increased to the normal speed, and the change effected without even stopping the cars and with absolutely no delay to traffic or passengers.

"On this section also, being the most crowded portion of the line, the normal speed would be always maintained at a lower rate than elsewhere on the line.

"The tunnels or conduits would be about two feet in depth. The excavation for the tunnel would be about three feet six inches in width, with a depth of about thirty inches excepting at the yokes, for which it will be necessary to cut into the bank at the sides to the width of the present rails, and an additional depth of about six inches for the foundation. Compared with the One Hundred and Twenty-fifth street line these dimensions would be no greater and probably considerably less.

"As before stated, the carrying pulley vaults will be placed about thirty-five feet apart. At these points excavation will extend between the two tracks, excepting between Sixth and Grand streets where independent vaults will be placed under each track. The length of these vaults will be just sufficient to admit access for a man to replace or oil these pulleys whenever necessary. For the double vaults, the man-holes shown in drawing No. 3 would be between the tracks, whilst for the single vaults the man-hole would be either between the rails or at the side, as may be best suited to the requirements of the locality at which the same may be placed.

"Wherever it will be necessary below Sixth street to deflect the cable, owing to the curvature of the line of the streets, curve pulleys, as per drawing No. 5, will be located.

"While it would be the company's object to make excavations of the entire work as shallow as possible so as not to interfere with existing pipes of any kind, it is nevertheless proposed to cover the entire length of the conduits or tunnels and the vaults connecting therewith, with a covering of sufficient depth and strength to withstand the heaviest trucking that can possibly be anticipated to pass over it.

"The lowering of pipes whenever any such are encountered too near the surface will be done at the company's expense and in the most efficient manner.

"The large cities of the Union, including Philadelphia, Chicago, St. Louis and San Francisco, have uniformly granted the general use of cable power to street surface railroads with successful results.

"The Legislature of this State by the passage of its recent act has approved the policy of a change from horse power and the language of the press and the assent of the abutting property owners indicate the public to be highly in favor of the extension of the use of cable power by this company to its Third avenue line."

At the hearing no opposition was presented to the granting of the application except upon the part of the city authorities, by Mr. Dean, assistant corporation counsel. The ground taken by him was that the act transferring the authority to permit a change of motive power from the local authorities to the Board of Railroad Commissioners was unconstitutional, in that it contravened that portion of section 18 of article 3 of the Constitution of the State, which provides, "but no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, *and the consent also of the local authorities* having the control of that portion of the street or highway upon which it is proposed to construct or operate such railroad, be first obtained."

Mr. Dean moved that the application be dismissed upon the above ground. An oral argument was submitted by him and a brief subsequently filed with the Board to sustain this view; also an opinion of the corporation counsel, Hon. William H. Clarke, reinforced by an opinion to the same effect from James C. Carter, Esq.

On the other hand, the constitutionality of the act was contended for by Mr. Lauterbach, on behalf of the company.

The contention of Mr. Clarke is in brief, that the effect of the act in question is to confer a new franchise upon a street railroad corporation without the consent of the local authorities; that such a conferring is unconstitutional. He cites, to sustain his position, *The People, ex rel. the Third Avenue Railroad Company v. Newton* (112 N. Y., 396), and *Astor v. N. Y. Arcade R. R.* (22 N. Y. State Reporter, 1).

Mr. Lauterbach, on the other hand, contends that the constitutional prohibition is against the granting permission to construct or operate a new railroad without the consent of the local authorities; that the road in question is already constructed and operated, and that a change of motive power is merely a modification of the construction and operation and comes within the power of the Legislature; and that the Legislature has delegated such power to the Board of Railroad Commissioners. He cites to sustain his position *The Matter of the Gilbert*

Elevated Railroad (70 N. Y., 361). He further claims that the cases cited by Mr. Dean to sustain his position, in reality sustains his (Lauterbach's), particularly the case of *The People ex rel. Third Avenue Railroad v. Newton*, wherein the court says "a demand so extraordinary and subversive of necessary municipal control should be yielded to only when required by the explicit direction of the Legislature."

The Board will not discuss this point further than to say, that inasmuch as the law-making powers of the State have deliberately imposed this duty upon the Board of Railroad Commissioners, it would in its opinion be unjustifiable, if not positively insubordinate to decline to act, certainly until the law had been declared unconstitutional by the properly constituted courts.

It may be proper to call attention to the fact that in the case hereinbefore quoted, viz., *People ex rel. Third Avenue Railroad v. Newton*, which was an action to compel the then commissioner of public works to grant a permit to the Third Avenue road to excavate the streets to build its cable conduit, and whose refusal was sustained by the Court of Appeals, the right of the railroad company to change its motive power under section 12 of the General Street Railroad Act (chap. 252, Laws 1884) did not appear in the case at all, for the reason, as explained by Mr. Lauterbach, that the railroad company claimed such right under its own charter irrespective of the act of 1884.

In regard to the merits of the case of the change of motive power from horses to cable, the Board has made a careful investigation.

There appeared to be a public impression that under the provisions of the act the Board would be justified in withholding its consent to any change of motive power unless the corporation applying agreed to adopt that which in the opinion of the Board was the best. The Board would hardly be justified, however, in taking this view. If the motive power to which it is proposed to change is clearly an improvement over that already existing, is consented to by the necessary majority of abutting property owners, and ample provision is made to protect the public interests in all respects, the Board deems that it would be its duty to grant the permission.

The Board, however, did take occasion to investigate other methods of propulsion. As is generally known, the electric railway has made rapid advances within the last few years. Methods known as the Sprague, and the Thomson and Houston, provide the energy through a wire overhead, sustained on poles along the road. This, for obvious reasons, would be objectionable in the streets of New York where the telegraph poles, after a long and bitter contention, are at last being removed. It is but proper to say, however, that the Board was very favorably impressed with the system of storage batteries, particularly that in operation on the Fourth Avenue road, known as the Julian motor. The energy in these cars is supplied from a storage battery carried under the seats. The car is under the complete control of the brakeman or driver; it can start on a steep grade from a state of rest, and runs at a rate of speed quite as fast or quite as slow as may be desired. There are obvious advantages in such a system, for the reason that each car is independent of all other cars. The

Board drew the attention of the Third avenue road to this system, but Mr. Lauterbach informed it that the company was wedded to the cable system, and believed, for its purposes, that no other system, certainly at present, was so well adapted. He adduced testimony upon this subject from experts, and those who had carefully investigated the subject, which, properly, carried with it great weight.

The attention of the Board was also drawn to the Vogel and Whelan grip, and to the small size and simplicity of the construction of the conduit when such grip is used. For a single cable it appears most desirable; it would not answer, however, for a duplicate cable. The advantages of the latter, enabling one cable to be used when the other is stopped for repairs, appear to more than compensate for the inability to use this grip and conduit.

The Board carefully inspected the cable system in operation on the One Hundred and Twenty-fifth street line, and finds that it is in successful use, and meets with the approval of those living on its route and using its cars. The advantages claimed for it by the counsel in the application hereinbefore quoted, the Board finds substantially sustained by the facts. The duplicate system, consisting of two cables, provides for the thorough repair of either requiring it, and against the likelihood of the entire system stopping at the same time. The grip, when properly constructed and equipped with the throw-off attachment, appears to be under the control of the gripman, and the danger of its not letting go, and thus bringing about a collision, apparently need not necessarily exist. Such an accident did take place a short time ago. Upon investigation by the Board, it turned out that the throw-off attachment had been removed. The authorities of the road, however, assure the Board that this will be replaced on all the cars, and still additional precautions taken.

The proposition of the company to have a station near the lower end of section No. 3 from which that portion of the line will be operated at a reduced rate of speed provides against the danger of too rapid running through the crowded streets of the lower portion of the city.

The doing away with the horses, stables and the uncleanness of the streets, together with the salt in winter, and the sand now permitted by law, are matters of no little importance.

The disturbance of the sewers, water-mains, gas-pipes, etc., is the most serious objection to the construction of the conduit. Upon this subject, much testimony was had at the hearing. Mr. G. W. Birdsall, chief engineer of the Croton aqueduct, was fearful that the disturbance to the pipes would result in great inconvenience, if not positive injury, particularly on Park row.

On the other hand, Mr. George A. Wheeler, who was in charge of the construction of the subways for the electrical wires on Park row, testified that he was familiar with the location of the sewers and pipes on that street and on Third avenue, and that there was no engineering difficulty in the way of readjusting them to enable the proposed cable conduit to be built.

The testimony of Mr. Daniel J. Miller, a civil engineer of large experience in constructing cable railroads, was also introduced to the same effect.

It was substantially conceded by Mr. Birdsall, himself, that while the readjustment of the pipes, etc., would be very expensive, there was no insurmountable difficulty attending it. The expense, of course, the Third Avenue railroad agrees to bear.

CONCLUSIONS.

For the above reasons the Board of Railroad Commissioners is of the opinion that it is justified in approving, and it does hereby approve, of the change of motive power of the Third Avenue Railroad Company from horse power to cable traction, in the manner known as "The Duplicate Cable System," and substantially in the way set forth in the application of the company, with the following additional conditions, and the acceptance by the railroad company of this permission will be regarded as an agreement thereto, which said conditions are hereby made part of such approval.

First. The company shall repave the streets in a way to be approved by the commissioner of public works of the city of New York, and keep in good repair the space inside the tracks and a space two feet each side of the same, as now required by its charter.

Second. The company shall reconstruct and readjust the sewers, water-pipes and gas-pipes in accordance with the requirements and under the supervision of the said commissioner of public works, being careful to place the water-pipes a sufficient distance from the conduit to prevent freezing in cold weather.

Third. The company shall lay a rail of a cross-section and construction to be approved by the commissioner of public works and the Board of Railroad Commissioners.

Fourth. The company shall agree to remove snow from its tracks and not throw it on either side of the tracks, as has been the custom heretofore.

Fifth. The rate of speed of the cable shall not exceed six miles per hour, south of Sixth street, nor nine miles per hour north thereof, subject, as at present, to the control of the local authorities.

Sixth. This permission is given upon condition that the cable conduit and structure to be constructed and used by the Third Avenue Railroad Company, shall not, in any manner, interfere, except during the course of construction or necessary repair, with the use of the tracks of the Second Avenue Railroad Company in the Bowery and Chatham street between Grand street and Pearl street, as now used in common by the Second Avenue Railroad Company and the Third Avenue Railroad Company for the passage of the cars of the said Second Avenue Railroad Company, and upon the condition that the Second Avenue Railroad Company may use any cable, conduit or structure that may be laid between said streets by the Third Avenue Railroad Company in common with said company upon payment of one-half of the cost of maintaining the same between the said points, and shall have all necessary and proper facilities for connecting with the same, and upon the further condition that the said conduit, cable and structure shall be so constructed, if practicable, that the Second Avenue Railroad Company can insert a cable or duplex cable in said conduit upon paying one-half of the cost of construction of said conduit.

II.

IN THE MATTER OF THE APPLICATION OF THE UTICA BELT LINE STREET RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE IN MOTIVE POWER FROM HORSES TO ELECTRICITY, IN ACCORDANCE WITH CHAPTER 531, LAWS OF 1889.

September 30, 1889.

This application, dated Utica, September 6th, 1889, was duly lodged with the Board.

A public notice of hearing was given through the press of Utica, and such hearing was had at the office of this Board, in the city of Albany, on September 17, 1889. The company was represented by John W. Boyle, Esq., and the Hon. John D. Kernan. Citizens opposed to the granting of the application were represented by P. C. J. DeAngelis, Esq.

On behalf of the petitioner, an affidavit was submitted by Joshua Mather, president of the company, to the effect that the Utica Belt Line Street Railroad Company is now operating about twenty-three miles of street surface railway in the city of Utica and suburban villages; that about ten miles of said railway was, in December, 1886, leased for ninety-nine years from the Utica, Clinton and Binghamton Railroad Company; that nearly all of said leased lines have been rebuilt since the same were leased, and the remaining thirteen miles of track is new construction since 1886; that since the leasing aforesaid and the operation of the lines aforesaid by the petitioner, the street car service of the city of Utica has in every respect been very much improved, so that it is now commended by the entire public and the press of the city; that realizing some time ago that upon the long lines of the company it was essential both to the public and to the company that even more frequent and rapid service should be given than can be given by horse-power, the officers of the company began investigating the matter of electric motors for street car propulsion, and have reached the conclusion that the overhead electric traction system was practicable, safe and more desirable, and that while the storage system commends itself in many particulars, it is not believed to be practicable at all for Utica, owing to the many long and heavy grades to be overcome in the operation of the petitioner's cars; that this view is concurred in by the Julian Electric Traction Company of New York, whose representative recently went over the petitioner's lines, and, after a careful examination, stated that the Julian storage-battery cars could not be successfully or economically operated on the petitioner's lines, and declined to send storage-battery cars to Utica for trial; that with a view of introducing the overhead system of electric traction on the petitioner's lines, the petitioner, about August twenty-seven last, invited the mayor and common council of Utica, and many leading citizens, to go to the city of Scranton, Pa., and there to examine into the practical workings of an extensive overhead system in operation; that such invitation was very generally accepted by both those in favor and those opposed to the proposed change; that since such investigation and inspection of the Scranton system of electric propulsion the public sentiment in and about Utica is practically unanimous in favor of the change now asked for, and

the company only meets with the opposition of a few property owners, mainly residents of one street; that the petitioner has accordingly determined to change the method of operating its cars to the overhead system of electric power, provided it has already, or shall obtain, the required consent of the property owners, and the approval of this Board, as required by law; that the petitioner believes that this change should be made before winter fully sets in, to the end that a full and fair test of the proposed system may be obtained during the winter months. And the petitioner, therefore, begs the Board to pass upon the application as speedily as may be consistent with the proper discharge of its duty in the premises.

There were also submitted, on behalf of the railroad company, the consents of the boards of trustees of the village of New Hartford, the village of Whitesboro, the common council of the city of Utica, and a list of what was claimed to be the owners of more than one-half in value of the property bounded on that portion of the several lines of railroad as to which a change of motive power is now proposed, consenting to such change.

On behalf of the opponents, Mr. DeAngelis claimed that the consents of a majority in value of the abutting property holders on Genesee street and Hopper street had not been obtained.

He contended:

First. That the proper course for the Board to take in these applications was to determine the question whether the consents of property holders had been properly and legally given.

Second. That the Board should construe the amendment of section 12 of the law to mean that the consents of a majority in value of abutting property holders on *each* street, rather than upon the whole line of the road through several streets, should be obtained before such consents should permit a change of motive power to take place.

These views were resisted by counsel of the petitioner who claimed orally, and in a brief subsequently submitted, that the approval of the Board of Railroad Commissioners was a matter entirely independent of the consents of the property holders, and should be based solely upon the merits of the proposed change as being a safe and proper public improvement.

With regard to the first point contended for by Mr. DeAngelis, the Board is of the opinion that its functions do not require that it should go into a judicial trial as to the legality of the consents of abutting property holders on a particular street, provided the railroad company makes a reasonable showing in its favor and presents, as in this case, an undisputed and overwhelming majority in its favor on the whole line of the road. For instance, it might be claimed by the opponents, and in fact in this case is claimed, that in some cases of consents given by trustees or executors, they had no authority to give such consent; that in particular cases of consents the notices provided in section 3 of the act had not been properly posted in accordance with the law, and numerous other defects, perhaps, which would take a long time to investigate and try. It would needlessly occupy

time, for after such investigation and trial the findings of the Board would have no legal force or effect.

It appears to the Board that if these questions are to be tried they should be brought up before the courts in a suit to enjoin the railway company from erecting its poles, or in some other suitable procedure. The finding by such court, subject to appeal, would be conclusive as to the matter, whereas, the trial of such an issue before the Board of Railroad Commissioners would simply consume time and be of no final force and effect.

That the Board should require that the *prima facie* consents should be submitted to it as a guide to its own determination, it believes to be the just and proper course, and such course it has taken in this case, as will subsequently appear.

It is to be remembered that the consents, so far as the Board are concerned, are only of value as showing the sentiment of the abutting property owners for or against a change. On the other hand, however, the Board is quite clear that these consents should be filed, and subject to inspection by anyone desiring to see them, and so recommends. Otherwise, parties disputing the claim of the railroad that a majority of consents had been obtained, would have no means of information upon which to base a suit. Section 4, chapter 252, Laws of 1884, as made applicable by the act passed last winter, requires that the consents should be filed within a year of the date of the consent of this Board, otherwise the latter ceases and determines.

With regard to Mr. DeAngelis' second contention, the Board draws attention to the fact that section 18, article 3 of the Constitution of the State provides that "No law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of *that portion of the street or highway* upon which it is proposed to construct or operate such railroad be first obtained. * * *

The act under consideration, however, provides that the consent for the change of motive power shall be "approved by the State Board of Railroad Commissioners and consented to by the owners of one-half in value of the property bounded on *that portion of the railroad* as to which a change of motive power is proposed." It will be observed that the word "railroad" is substituted for "street or highway," consequently it is evident that under a strict interpretation of the law, the consents of a majority in value of property holders abutting on the line of the *railroad* are what is necessary to be obtained, and that dissents by a majority of property holders in some one street would not preclude the change.

It is furthermore, in the opinion of the Board, evident that if the act under discussion is not in grave danger of being declared unconstitutional, it must not be considered as coming within the provisions of section 18, article 3 of the Constitution at all; for if it comes within the provisions of that section as to the consents of property holders, it comes also within the provisions as to the consent of local authorities. Therefore, the only logical position that can be taken is to assume that the change of motive power does not come within the requirements of the constitutional provision, but is only a *modification* of the construction and operation of the road and consequently

within the power of the Legislature to permit. Under this view of the law the Legislature could have amended the act relieving a railroad from the necessity of obtaining any consents from property holders, local authorities or anybody else as to the change of motive power; it deemed it wise, however, to enact the provisions as it did.

On the other hand the Board, under the general discretion given it, should take into consideration the equities surrounding the dissents of a majority in value upon any street through which the railroad passed and give due weight to it. A case in point, as will be afterward seen, however, clearly illustrates how an objection upon the part of a majority of property holders on a very short piece of road — possibly only a few rods — might preclude a change of operation on many miles of track, although concurred in by an overwhelming majority of property holders in all other directions.

Much discussion was had at the hearing as to the insufficiency of the consents of property holders, particularly on Genesee street. The final outcome of the matter was an order by the Board that the list of consents as presented by the railroad should be submitted to Mr. DeAngelis; that an adjourned hearing should be had on Tuesday, September twenty-fourth, at which time he should submit what he claimed to be a correct list of consents and dissents, and should also be given an opportunity to show why certain property owners consenting had withdrawn their consents, he claiming that he would submit affidavits showing that the consents had been originally given upon the part of such parties withdrawing in consequence of fraudulent misrepresentations.

At the hearing September twenty-fourth, the issues were narrowed down as to the consents on Hopper street, and Genesee street within the city limits.

With regard to Hopper street, it appears that the railroad makes a turn from Union street to Steuben street, going a distance of but 240 feet on Hopper street. The assessed value of abutting property is \$49,000. Consenting \$16,000. This is such a very small portion of the route and the abutting property is likely to suffer so little inconvenience, if any at all, that the Board does not deem that the dissent of the property holders should serve to estop the entire building of the road.

With regard to Genesee street, much discussion was had as to whether parties having originally signed consents could withdraw. Mr. DeAngelis claimed that the consents were merely licenses revokable at will. (It is to be noted that the affidavits withdrawing consents alleged no fraudulent misrepresentations as having led the parties to consent originally, but that the withdrawals were in consequence of a change of mind after further reflection.) The counsel of the railroad, on the other hand, claimed that such withdrawals could not be made, in the determination of the question as to whether the railroad had secured the consent of a majority in value of abutting property holders, as provided by statute, for the reason that once having obtained such majority of consents it became a vested right. The counsel admitted that such withdrawal might be valid if the company assumed to erect any pole on the premises of the consenting party without consideration.

The Board will not express an opinion on this question, as under the views it takes of its functions it does not deem that it is material to a decision of the case.

The counsel of the railroad submitted an amended list of consents and dissents, the accuracy of which was sworn to by Omer Leyns, an expert accountant. From this it is claimed that

The total value of assessed property on Genesee street within the city limits, is.....	\$4,049,490
Of which a majority would be	\$2,024,746
Assents claimed (including Butterfield's store).....	\$2,483,834
Excess over and above a majority.....	<u>\$459,088</u>

It was claimed by Mr. DeAngelis, that this surplus should be diminished by the following sums:

Withdrawals of original consentors.....	\$215,500
Valuation of city hall	\$50,000
Baggs' hotel (claimed not to be on Genesee street)...	60,000
Miller property, corner of Whitesboro and Genesee streets (claimed not to be on Genesee street).....	41,000
Gardner property (claimed not to be on Genesee street),	35,000
Mr. C. Ballou (claimed not to be on Genesee street)	47,000
Jeff. Lewis (claimed not to be on Genesee street).....	10,000
	<u>243,000</u>
Total.....	<u>\$458,000</u>

If these items were proper to be stricken out from the surplus — which is not admitted either by the representatives of the railroad authorities, nor so determined by the Board — it would still leave an apparent surplus, as the same items should be stricken from the assessment-roll, thus diminishing the amount of consents necessary.

Mr. DeAngelis claimed that certain property was not on the assessment-roll, to-wit:

Grace church	\$45,000
Christ church.....	18,000
County clerk's office.....	18,000
Total	<u>\$81,000</u>

and that these should be regarded as dissenting. Even admitting this for the sake of argument, it would still leave an apparent surplus in favor of consents, for the same reason as given above, i. e., that if this sum is added to the assessment-roll, the above sum of \$243,000, claimed by Mr. DeAngelis to be improperly on, should be subtracted, thus diminishing by one-half, or \$126,000, the amount of consents necessary for the railroad to obtain.

Another point, claimed by Mr. DeAngelis, was that in many cases the entire value of property, whose owners had consented, was assessed as being on Genesee street, whereas the property faced on other streets as well as on Genesee street, that consequently it was not fair to credit the consents with the entire value of this property. This point the Board does not regard as of any particular value, for the reason that the same condition of affairs holds true as to the dissents or non-consenting, and the probabilities are that the proportions of property not properly chargeable to Genesee street would be about equal in both cases.

With regard to the general merits of the overhead system of electric propulsion, the Board deems it proper to say that there have already been developed in its investigations certain features to which it desires to call attention. A tremendous energy is invoked. The cars are enabled to run at a very high rate of speed, and certain dangers undoubtedly accrue that should be carefully guarded against. The city authorities should see to it that a higher rate of speed than that consistent with safety to the street travelers, should not under any circumstances be permitted; that at least two men should be on every car, viz., the brakeman or driver, and the conductor. No car propelled by electricity should be permitted to run with less. The erection of poles, too, with the transverse wires, to a greater or less extent, impairs the use and appearance of the streets, and the railroad company should be required to erect sightly poles, and high enough to permit all vehicles to pass with their loads under the wires stretched across the street.

CONCLUSIONS.

In view, however, of the facts, that the local authorities having control of all the streets, both in Utica and the outlying villages, through which the lines of this railroad run, that property owners to the amount of \$14,500,000, out of a total assessed value on the line of the route of \$23,000,000, have consented to the change of motive power, and that even on Genesee street a majority appear to have consented, this Board is of the opinion that it is justified in approving and it does hereby approve of the change of motive power by the applicant, from horses to electricity, so that the said Utica Belt Line Street Railroad Company may operate its present system of street surface railways, and each of them, whether leased or owned, by electric power transmitted to the cars from wires suspended overhead, with the following conditions, however, which are made part of this approval:

First. The rate of speed shall not exceed that to be definitely fixed by the mayor and common council of the city of Utica, and the boards of trustees of Whitesboro and New Hartford, on the streets within the respective jurisdictions of said municipal or village corporations.

Second. The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets on which they are erected, so as to impair the use and appearance thereof to the least possible extent, and before erection shall be approved by the aforesaid municipal or village authorities respectively.

Third. No car shall be run with less than two men to operate it, i. e., conductor and brakeman.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or otherwise.

III.

IN THE MATTER OF THE APPLICATION OF THE TROY AND LANSINGBURGH RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO ELECTRICITY ON THAT PART OF ITS ROAD LYING IN THE VILLAGE AND TOWN OF WATERFORD, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889.

September 10, 1889.

This application, under date of July the 20th, 1889, was lodged with the Board.

A public hearing was set down at the office of the Board of Railroad Commissioners at 10 o'clock A. M., Tuesday, September 10, 1889, public notice of the same having been widely given in the newspapers of Troy. The railroad company was represented by its president Mr. C. Cleminshaw, its counsel Edgar L. Fursman, its former president William Kemp and others.

The original application covered only so much of the route as lies in the village of Waterford; it was amended at the hearing, however, to cover that portion of the route lying in the town of Waterford between the village and the Mohawk river. Inasmuch as no opposition was presented to the change on any portion of the route, within the village or the town, but, on the contrary, it appeared that property owners and citizens generally were in favor of the proposed change, the Board will consider the application on that portion of the route lying both within the town and the village.

It may be proper to say that a subsequent application for the approval of the Board of a change of motive power on other portions of the road, has been filed but will not be considered until after due advertisement and notice to parties in interest.

It appears from the affidavit of Ely M. Powell, of Waterford, N. Y., that the assessed valuation of the property bounded on and along the line of Broad street, in the village of Waterford is \$107,700, and that the owners of said property to the amount of \$85,200 have consented to the proposed change of the motive power.

It also appears from the affidavit of Frank B. Peck, of Waterford, that he has examined the assessors' books and finds that the assessed valuation of the property bounded on and along the line of highway commencing at the Champlain canal lift bridge and running to the Mohawk river bridge, in the town of Waterford, is \$131,400 and that the owners of said property to the amount of \$106,400 have consented to the proposed change in motive power; the Board is informed that additional consents have since been obtained.

The Board also finds that portion of the Troy and Lansingburgh road from the north of city line of Troy to the bridge across the Hudson river at Lansingburgh, has been equipped with the overhead trolley electric wire system (known as the Sprague), this construction having taken place previous to the passage of the law requiring the consent of the Board of Railroad Commissioners, and under the authority of chapter 432, of the Laws of 1873.

CONCLUSIONS.

In view of the above facts and reasons the Board deems that it is justified in approving, and it does hereby approve, of the change of motive power from horses to the overhead electric wire system on so much of the route of the Troy and Lansingburgh Railroad Company as lies in the village and town of Waterford.

IV.

IN THE MATTER OF THE APPLICATION OF THE TROY AND LANSINGBURGH RAILROAD COMPANY ON ITS OWN BEHALF, AND AS LESSEE OF THE RAILROADS OF THE WATERFORD AND COHOES RAILROAD COMPANY, THE TROY AND COHOES RAILROAD COMPANY AND THE LANSINGBURGH AND COHOES RAILROAD COMPANY, FOR THE APPROVAL OF THE BOARD OF A CHANGE IN MOTIVE POWER FROM HORSES TO ELECTRICITY, ON CERTAIN PORTIONS OF THEIR RESPECTIVE ROUTES, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889.

October 28, 1889.

This application, dated the 6th day of September, 1889, was duly lodged with the Board.

A public hearing was had at the office of the Board in Albany on September the 24th, 1889, after due notice thereof in the newspapers and by written notice to parties immediately interested.

The railroad company was represented by P. D. Niver, Esq., counsel, Mr. Charles Cleminshaw, president of the road, General Joseph B. Carr and several employees.

At the opening of the proceedings, the counsel for the railroad company made formal application for the approval of the Board, and presented the consents of the owners of more than one-half in value of the property bounded on that portion of the railroad as to which a change of motive power was proposed. Subsequently, affidavits of John H. Egan were submitted, to the effect that he was, during the month of August and up to September the 16th, 1889, city clerk *pro tem.* of the city of Cohoes; that he had examined the assessment-rolls of the city; that the whole amount of the assessed valuation of the property on and along Saratoga street, from the terminus of the Waterford and Cohoes railroad to the Mohawk river bridge, was \$134,000, of which the owners of said property, to the amount of \$125,700, had consented to the change of motive power; that the whole amount of assessed valuation of the property on and along Mohawk street, between Ontario street and the terminus of the Troy and Cohoes railroad, was \$607,000, of which the owners of said property, to the amount of \$382,000, had consented to the change of motive power; that the whole amount of the assessed valuation of the property on and along Ontario street, from the terminus of the Lansingburgh and Cohoes railroad in the city of Cohoes to the Hudson river bridge, was \$266,000, of which the owners of said property to the amount of \$224,900 had so consented.

The application was opposed by the Commercial Telephone Company of Troy, through its counsel, William Shaw, Esq., and the Hon. Charles Patterson, and by the common council of the city of Cohoes, through the city attorney, George H. Fitts, Esq.

By consent of all parties, the hearing of the case was adjourned to September the thirtieth at which time, the arguments and evidence not being concluded, a third hearing was set down and had on October the fourteenth.

Briefs were to be submitted by the three parties respectively not later than Monday, the twenty-first inst. That of Mr. Fitts, on behalf of the city of Cohoes, with the consent of Mr. Niver, representing the railroad company, was finally filed on Monday, October the twenty-eighth.

First. As to the opposition from the Commercial Telephone Company.

A large amount of testimony was had at these hearings, particularly touching the matter of the interference with the currents on the wires.

of the telephone company by conduction and induction from the wires of the railroad company.

It is not deemed necessary to review this testimony in detail. It appeared to be clearly proven, however, that there was a substantial interference with the delicate currents on the wires of the telephone company by the high tension currents from the lines of the railroad company. It appears that the current which propels the motor in the cars of the railroad company reaches the motor by a single overhead or trolley wire. What is termed the "feed" wire runs on poles erected near the curb. At intervals of a few hundred feet this feed wire is connected with the overhead wire, thus supplementing the current in the overhead wire as needed. The circuit from the dynamo of the railroad company passes through the feed wire, or through the overhead wire, into the motor, through the wheels to the rail, and then back to the dynamo through the rails and the earth.

It is claimed by the telephone company that in the passage through the rails back to the dynamo more or less "leakage" takes place into the wires of the telephone company, which may be grounded near the railroad track. This would be interference by conduction.

It is also claimed, and appeared to be proven, that more or less interference takes place from the proximity of the feed wire and overhead wire to the wires of the telephone company by what is known as induction (it being a fact of electrical phenomena that a current passing through one wire induces a current in the opposite direction through a parallel wire; the amount of the current induced being inversely proportionate to the square of the distance).

It appeared to be shown from the testimony of Mr. H. V. Hayes, an electrical expert, and by the actual experiments of Mr. A. Seeley, superintendent of the telephone company at Troy, assisted by Mr. F. W. Sabold, General Manager of the Western Union Telegraph Company at Albany, that the interference from conduction or "leakage" could be remedied by the telephone company by laying a main ground wire, thus improving the circuit of the latter company, but that the difficulties from induction could not thus be disposed of.

It appeared to be further proven that the only way that the telephone company could entirely do away with the difficulties both of induction and conduction, would be by duplicating its wires so as to make a complete metallic circuit from every one of its subscribers to the central office. This was shown to be an exceedingly expensive, if not impracticable, thing to do.

The telephone company, on the other hand, claimed that the proper way to remedy the difficulties from both induction and conduction would be for the railroad company to construct two overhead or trolley wires, thus making a metallic circuit complete from the dynamo; through one trolley to the motor and back again through the second wire to the dynamo, and this would be a matter of comparatively small expense to the railroad company.

The electricians on behalf of the railroad company admit that the double overhead or trolley wire would remedy all the evils, but they object to it upon the ground that it is much more difficult to operate than the single wire.

The telephone company request that the Board decline to approve of the application of the railroad company, unless the railroad com-

pany agrees to construct a double overhead or trolley wire rather than a single wire.

The claim of the telephone company, in other words, is that it had constructed its poles and strung its wires lawfully and was using the earth to complete its circuit; that the railroad company then constructed its poles and strung its wires near to those of the telephone company, and also used the earth to complete its circuit; that in the passage through the earth the currents of the greater intensity of the railroad company interfered with those of the telephone company; that this interference is a trespass and should not be permitted.

While the Board recognizes that there is a hardship suffered here by the telephone companies, it is in grave doubt whether it is of a character that the Board would be justified in redressing, if it necessitated the Board taking the position that the railroad company should not use the earth to complete its circuit. It appears to the Board that the decision of this question should rather be brought before the courts in a suit for damages, or in some other proceeding, and the respective rights of the two companies to the use of the earth as a conductor be there determined. To determine it in the way petitioned by the telephone company would be equivalent to saying that any electrical company using a minimum current should have the exclusive right to the earth as a conductor. This the Board is not prepared to say. The question, so far as the Board is aware, is unprecedented, and it does not feel that it is its duty to decide it. As before stated, it deems that the proper course would be a suit to be brought by the telephone company against the railroad company.

Second. As to the opposition from the city of Cohoes.

The principal objection raised by Mr. Fitts, attorney for the city of Cohoes, was that the erection of the necessary wires by the railroad company would interfere with the operation of the fire department in raising ladders in case of fire. Considerable testimony to this effect was given by Reuben S. Calkins, chief of the fire department of the city of Cohoes.

A brief was subsequently submitted by Mr. Fitts to the same effect, and suggesting that the storage battery system would be preferable to the overhead wires.

The Board agrees with Mr. Fitts that great weight should be attached to the protest from the common council of the city in reference to this matter. With this idea in view, the entire Board made a careful personal inspection of the streets through which the change of motive power is proposed. It finds that, inasmuch as the overhead system is now in operation through Lansingburgh, and in process of construction through the village and town of Waterford, the very much larger portion of the route of the railroad company, it would be impracticable to use storage batteries through one or two streets of the city of Cohoes.

The Board also finds that there can be little or no objection to the wires upon any of the proposed streets of Cohoes except, perhaps, on that portion of Mohawk street between the junction with Remsen street and Ontario street. Even here, if due precautions are taken by the railroad company, and facilities to cut wires provided in case of fire, the objections do not appear to be serious. It is also to be remembered that electric light wires already exist carrying a current of 1,500 volts, whereas the current of the railroad company would probably not exceed 500. As the city authorities have permitted the electric light wires to be strung, it would seem but just that they

should permit the railroad wires to be also strung, as the latter are far less dangerous than the former.

CONCLUSIONS.

In view of the fact that the Troy and Lansingburgh Railroad Company are now constructing the single trolley system through the town and village of Waterford, with the approval of the local authorities thereof, and with the consent of a large majority of the abutting property holders: that it has also constructed its line through the village of Lansingburgh with the same system: that a very large majority of the abutting property holders upon its line through the city of Cohoes have consented to the proposed change, and that no opposition has been presented from them: and in view of the further fact that the proposed change would be a great improvement upon horse power, the Board deems that it is justified in approving, and does hereby approve of the change of motive power from horses to the overhead single trolley system by the Troy and Lansingburgh Railroad Company, on its own behalf, and as lessee of the railroads of the Waterford and Cohoes Railroad Company, the Troy and Cohoes Railroad Company and the Lansingburgh and Cohoes Railroad Company, on the following portions of the above lines, to-wit:

On the Waterford and Cohoes railroad, from the bridge across the Mohawk river to its terminus in the city of Cohoes: on the Troy and Cohoes railroad, from its northern terminus in the city of Cohoes to the intersection of Mohawk with Ontario street in said city: on the Lansingburgh and Cohoes railroad, from its terminus in the city of Cohoes to its terminus in the village of Lansingburgh: with the following conditions, however, which are made part of this approval:

First. The rate of speed shall not exceed that to be definitely fixed by the mayor and common council of the city of Cohoes.

Second. The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected, so as to impair the use and appearance thereof to the least possible extent, and before erection shall be approved by the Board of Railroad Commissioners.

Third. No car shall be run with less than two men to operate it, if run alone; if two cars are coupled together, there shall not be less than three men for the two cars.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or otherwise. This provision, however, is not intended to require the railroad company to construct a double trolley wire.

Fifth. The railroad company shall provide insulated shears at some convenient point near the intersection of Ontario and Mohawk streets, and at other points on its line designated by the local authorities, with which to cut its wires in case of fire, and shall also supply the fire department of the city of Cohoes with such shears.

Sixth. The company shall remove the snow from its tracks on that portion of the road in Mohawk street between Ontario and Remsen streets, and not throw it on each side as has been the custom heretofore.

Seventh. The company shall keep the paved part of the streets between the tracks in repair, and also the space of two feet outside of each rail.

ISSUE OF BONDS.

In the year 1887, subdivision 10 of section 28 of chapter 140, Laws of 1850, was amended, upon the recommendation of this Board, by chapter 724, so as to read as follows:

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purpose aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid the right to convert the principal due or owing thereon into stock of said company, at any time not less than two nor more than twelve years from the date of the bond, under such regulations as the directors may see fit to adopt; provided, however, that if the already authorized capital stock of such corporation, at the time such bonds may be issued, shall not be sufficient to meet such conversion when made, the stockholders shall, before such issue and in the manner hereinbefore provided, authorize an increase of capital stock to an extent sufficient to meet the deficiency. *Any director or officer of a railroad corporation who shall vote for, sign or certify to any bond secured by mortgage or pledge of the corporate property, without the issue thereof having been sanctioned by a majority in amount of its stockholders, who shall vote in person or by proxy thereon, at a meeting called for that purpose, in the manner provided in section 9 of this act, to consider an increase of capital stock, shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year or by both such fine and imprisonment.*

Section 9 provides that a copy of the notice of the meeting of the stockholders, at which is to be considered and voted upon the proposition to increase the capital stock, shall "be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated * * * by the Board of Railroad Commissioners."

It therefore follows that a condition precedent to the issuance of bonds is an application to the Board to designate a newspaper in which to publish the notice of the meeting of stockholders. The Board requires that a verified copy of the notice, and a certificate of its publication by law, shall be filed subsequently with the Board.

There have been during the year ending September 30, 1889, twenty-one applications for the designation of such papers, viz.:

October 22, 1888 — Syracuse and Baldwinsville Railroad Company.

December 20, 1888 — Carthage and Adirondack Railroad Company.
Issue, \$1,600,000.

December 26, 1888 — Lincoln Park and Charlotte Railroad Company.
Issue, \$350,000.

January 17, 1889 — The Rochester and Glen Haven Railroad Company.

January 19, 1889 — South Ferry Railroad Company of New York.

February 6, 1889 — Rochester City and Brighton Railroad Company of Rochester. Issue, \$500,000.

February 14, 1889 — New York, Ontario and Western Railroad Company. Issue, \$10,000,000.

March 18, 1889 — Elmira and Horseheads Railway Company. Issue, \$100,000.

April 10, 1889 — Bath and Hammondsport Railroad Company.

April 10, 1889 — Watervliet Turnpike and Railroad Company.

April 15, 1889 — Saratoga and St. Lawrence Railroad Company. Issue, \$100,000.

May 30, 1889 — Eleventh Ward Street Railway Company of Syracuse. Issue, \$25,000.

May 16, 1889 — Port Chester and Rye Beach Railway Company. Issue, \$100,000.

May 28, 1889 — Utica, Clinton and Binghamton Railroad Company. Issue, \$800,000.

June 11, 1889 — Washington County Railroad Company.

June 14, 1889 — Campbell Hall Connecting Railroad Company. Issue, \$450,000.

June 17, 1889 — Adirondack Railway Company.

June 18, 1889 — Niagara Falls and Suspension Bridge Railroad Company. Issue, \$30,000.

June 27, 1889 — Central New England and Western Railroad Company.

June 28, 1889 — Utica and Unadilla Valley Railroad Company. Issue, \$250,000.

August 6, 1889 — Kinderhook and Hudson Railway Company. Issue, \$375,000.

APPLICATIONS TO SUSPEND OPERATION OF ROAD.

In 1886, chapter 605 was passed, providing that any railroad constructed and used principally for transporting lumber or ores during the summer months, or constructed and used principally for summer travel might cease the operation thereof, upon the consent of the Board of Railroad Commissioners thereto, having been first obtained. Under this law, the following applications have been made:

I.

IN THE MATTER OF THE APPLICATION OF THE STEINWAY AND HUNTER'S POINT RAILROAD COMPANY, FOR LEAVE TO SUSPEND THE OPERATION OF THE RIKER AVENUE AND SANDFORD'S POINT RAILROAD BRANCH, FROM DECEMBER 1, 1888, TO APRIL 1, 1889.

October 1, 1888.

Application having been made to the Board of Railroad Commissioners by the Steinway and Hunter's Point Railroad Company, for leave to suspend the operation of the Riker Avenue and Sandford's Point Railroad Branch from December 1, 1888, to April 1, 1889, in accordance with the provisions of chapter 605 of the Laws of 1886, and it having appeared from the papers submitted to the Board by such company that public interests would not at present be prejudiced by the suspension of the operation of said branch during the period specified, it is hereby

Ordered, That the said Steinway and Hunter's Point Railroad Company shall be relieved of the duty of operating the Riker Avenue and Sandford's Point Railroad Branch from December 1, 1888, to April 1, 1889, after it shall have complied with section 3 of said chapter 605 of the Laws of 1886, with regard to publishing notices of such intended suspension.

II.

IN THE MATTER OF THE APPLICATION OF THE ROCKAWAY VILLAGE RAILROAD COMPANY FOR LEAVE TO SUSPEND THE OPERATION OF ITS ROAD FROM THE 1ST DAY OF NOVEMBER, 1888, TO THE 1ST DAY OF MAY, 1889.

October 1, 1888.

Application having been made by the Rockaway Village Railroad Company for leave to suspend the operation of its road from the 1st day of November, 1888, until the 1st day of May, 1889, and it appearing, by papers on file with the Board, that public interests would not be prejudiced by such suspension of operation, it is hereby

Ordered, That the Rockaway Village Railroad Company shall be relieved of the duty of operating its road from the 1st of November, 1888, to the first of May, 1889, in accordance with chapter 605 of the Laws of 1886, upon compliance with section 3 of said statute, with regard to posting a copy of such order and of the intention of said road to suspend operation.

III.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR PERMISSION TO DISCONTINUE THE OPERATION OF THE BAY RIDGE BRANCH OF THE NEW YORK, BROOKLYN AND MANHATTAN BEACH RAILWAY COMPANY, FROM AND AFTER OCTOBER 1, 1888, DURING THE WINTER SEASON OF 1888-89.

October 9, 1888.

The formal application of the Long Island company for permission to discontinue the operation of the Bay Ridge branch, in accordance with chapter 605 of the Laws of 1886, was lodged with the Board, dated August the 28th, 1888.

The branch, in question, extends from what is known as the Manhattan Beach Junction to Bay Ridge, a distance of four and seven hundredths miles. This branch of road has been discontinued during the winter months for the last ten or twelve years, the last two years with the consent of the Board, in conformity with the statute of 1886, it having appeared, after a careful examination, that the public needs did not require a continued operation of the road during the winter.

Opposition to granting the application for the coming winter having been made by residents along the line of the road, a public hearing was set down at the rooms of the board of trade and transportation, in the city of New York, on Thursday, September the twentieth, at 10 A. M. At the request of Mr. John Mackay, representing the remonstrants, upon the ground that the notice of hearing was too short to enable testimony to be adduced, the hearing was adjourned to Thursday, October the fourth. Upon the latter occasion, the railroad was represented by E. B. Hinsdale, Esq., counsel, Mr. I. D. Barton, superintendent, and other employees. The remonstrants were represented by H. B. Hubbard, Esq., Mr. John Mackey and others.

Mr. Hinsdale contended in behalf of the road that the Board would be justified in permitting the Bay Ridge branch to cease operations upon the grounds:

First. That it was constructed and used principally for summer travel; that consequently it came clearly within the operation of chapter 605 of the Laws of 1886.

Secondly. That the local business of the road between Bay Ridge and the Junction was so small as to warrant and justify the cessation of operations during the winter.

A map showing the locality through which the road runs was exhibited, and the claim made by Mr. Hinsdale that other roads, viz.: the Brooklyn, Bath and West End railroad, the New York and Sea Beach railroad, the Prospect Park and Coney Island railroad, and the

Brooklyn and Brighton Beach railroad, all of which propose to run during the winter months, amply and completely serve all the necessities of residents along the line of the Bay Ridge branch of the Long Island road during the winter season. Mr. Hinsdale presented figures purporting to have been taken from the books of the company, which, if perfectly reliable, would have seemed to justify his position as to the merits of the case. The aggregate receipts were \$2,709.16 for the whole year, for business between local stations on the road and New York, and local business between the same stations and Sheepshead Bay and Manhattan Beach. It was shown, however, by the remonstrants that these figures could not be relied upon for the reason that the trains of the Prospect Park and Coney Island road ran over the tracks of the Bay Ridge branch during a large portion of the year, and carried the local travel at a considerably less rate than that charged by the Long Island road, that consequently they got the bulk of the travel. Such having been admitted to be a fact by Mr. Hinsdale, the Board does not consider that the figures presented need further consideration.

Mr. Hubbard, on behalf of the remonstrants, contended :

First. That the Bay Ridge branch of the Long Island road did not come within the contemplation of the statute, for the reason that it was not "constructed and used principally for summer travel;" and,

Second. That even if the road did come within the provisions of the statute, the merits of the case did not justify the Railroad Commission in granting the permission applied for.

In support of his first ground of objection, Mr. Hubbard stated that the Bay Ridge branch of the Long Island road was originally part of the New York, Bay Ridge and Jamaica railroad; that this corporation had been created for the purpose of building a railroad from Bay Ridge in the general direction of the present road, through East New York and to Jamaica; that it had been the object of the incorporators of this road to build a line to compete with the Long Island railroad; that land had been deeded by various parties and accepted by the railroad company upon the express condition that suitable stations and depots should be built upon the line of its railroad, and that passenger trains should be run thereon at least twice in each day, each way, morning and evening. A copy of an agreement to this effect, made by Peter Wykoff and Abigail Wykoff, his wife, duly acknowledged and recorded in the office of the register of deeds of the county of Kings, was filed with the Board. In a letter accompanying the same Mr. Hubbard asserts that like grants were made by Montford, Robert and others.

In support of the second ground of objection, viz., as to the merits of the case, a petition signed by fifty-six names, purporting to be those of residents of Bath Beach Junction, town of New Utrecht, has been lodged with the Board, protesting against the cessation of operations. Several witnesses, residents of Parkville, testified that the convenience of themselves and of other residents of that place would be greatly served by the running of such trains. It was also shown that lots of ground for building purposes had been bought at various points along the line of the railroad company by persons expecting to build thereon. A cross-examination of one witness,

however, developed the fact that many of these lots had been sold under either a misrepresentation by the sellers, or, certainly, a misunderstanding on the part of the purchasers, as to the running of trains, purchasers having understood that much more frequent trains would be run than had been the habit of the railroad company for many years past.

The history of the building of the Bay Ridge branch, as developed by statements made at the hearing and by the official reports of the companies to the Board, shows that about two miles of the original New York, Bay Ridge and Jamaica railroad was built from Bay Ridge in an easterly direction, by the original incorporators. It would then appear that they had been unable to complete the road and that they had sold their stock to Mr. Austin Corbin; that he and his associates had completed the road to the junction with the Long Island railroad; that the New York, Bay Ridge and Jamaica Railroad Company and the Long Island City and Manhattan Beach Railway Company, and the New York and Manhattan Beach Railroad Company, had then become consolidated into a corporation with the title of the New York, Brooklyn and Manhattan Beach Railway Company; that the latter company, as the successor of the New York and Manhattan Beach Railway Company, is leased and operated by the Long Island Railroad Company, under a lease dated May the 1st, 1882. The articles of consolidation bear date of July the 17th, 1885.

While it is probably true that the original incorporators of the New York, Bay Ridge and Jamaica Railroad Company intended that the road should be operated throughout the year, it is also true that these original incorporators built but a very small portion of it. When Mr. Corbin bought their franchises and property it is no doubt the fact that he only intended to construct a road for summer travel. Such was positively asserted to be the fact by Mr. Hinsdale, and other circumstances corroborate it, although Mr. Corbin himself was not present to testify thereto. Parties associated with Mr. Corbin did go on and build the road, and for many years since completion it has been operated principally for summer travel, and would, therefore, appear clearly to come within the provisions of the statute.

It is to be observed that the statute reads, "constructed and used *principally* for summer travel." Did it read "used *exclusively* for summer travel," a single person who would be benefited by the operation of a road in winter could prevent the cessation of such operation. With this idea in view the Legislature unquestionably inserted the word "*principally*," otherwise the statute would have no force or effect.

With the parties who deeded land to the original corporation with the provision that trains should be run daily, there is clearly a contract obligation to so run the trains. The Board is of the opinion that such parties could secure redress by a suit for damages. Whether or not they could, through the courts, compel the running of the trains, however, under all the circumstances, is another question.

It seems to the Board, however, that the statute of 1886, hereinbefore quoted, lodges with it a discretion which can be properly exercised in this case. Whether the road was constructed and used principally for summer travel is a matter of fact, and that fact appears to be

established to the satisfaction of the Board, although the original incorporators might at one time have intended to use it for traveling the year through, and certain residents along the line thereof may have deeded property at that time with this as a condition.

In the opinion of the Board, therefore, the question for it now to determine is, whether the merits of the case justify it in permitting the Long Island road to cease the operation of the Bay Ridge branch during this winter.

A considerable business has sprung up at Coney Island, and at intermediate points, sufficient to justify all the other roads running from that place to Brooklyn and New York to continue in operation, with a reduced number of trains, throughout the winter. At least the Board presumes that no cessation will take place as no application has been received by it from any other of the Coney Island roads, and from statements made at the hearing.

It was clearly established by the testimony of witnesses that a considerable number of people in the neighborhood of Parkville would be greatly accommodated by the running of the Bay Ridge branch. On the other hand, it is doubtless true that the running of trains would not pay the Long Island Railroad Company during this coming winter. They already run but a single train each way, the Board understands. Should the Board decline to grant the application to cease operations, the road would undoubtedly continue to run only a sufficient number of trains to maintain its charter. A recommendation of the Board, therefore, without the hearty coöperation of the railroad would be of little or no service to the remonstrants. Had the Board the power to enforce its decisions and compel the railroad company to adopt a time-table that would be satisfactory to the residents along the line of the road, it might be disposed to make such recommendation and try the experiment, even though it were satisfied that such trains would be unprofitable for the first winter.

In view of the fact, however, that the residents along the line would receive but little accommodation from a perfunctory running of trains for this winter, and of the further fact that the Long Island Company has no control over the ferry from Bay Ridge to New York, the Board deems that it would be the wiser course to grant the application for this winter, with the understanding that another season it will not grant the application to cease operations, but will expect the Long Island road to continue the operation of its Bay Ridge branch, and in good faith establish a schedule of trains that will accommodate the people, giving ample notice of the same through the summer, so that residents may make their arrangements for the winter understandingly, and property owners and purchasers of lots may build and improve their property with the expectation that they will be given a regular train service.

The application of the Long Island Railroad Company to cease the operation of the Bay Ridge branch of the New York, Brooklyn and Manhattan Beach railway during the coming winter, and until the 15th of April, 1889, in accordance with chapter 605 of the Laws of 1886, upon compliance with section 3 of said statute with regard to posting a notice of this order, and of the intention of said road to suspend operation, is hereby granted.

IV.

IN THE MATTER OF THE APPLICATION OF THE KAATERSKILL RAILROAD COMPANY
FOR PERMISSION TO CEASE OPERATION DURING THE WINTER MONTHS.

October 22, 1888.

Application from this company for permission to cease operations of this road from the 1st of October, 1888, to the 1st of June, 1889, was lodged with the Board, dated the 19th day of October, 1888.

This railroad is a narrow-gauge road in the county of Greene, running from a junction with the Stony Clove and Catskill Mountain railroad to Kaaterskill station, a distance of 7.40 miles. The operation during the winter months has always been suspended heretofore, and no complaint has reached the Board. It was constructed, and is used, principally for summer travel, and the Board deems that the application can be granted without detriment to public interests. It is to be noted, however, that the law restricts the suspension of operation to seven months of the year. The Board, therefore, dates its permission to take place from the first of November.

Permission, therefore, is granted to the Kaaterskill Railroad Company to suspend the operation of its road from the 1st of November, 1888, to the 1st of June, 1889, upon complying with the provisions of section 3 of chapter 605 of the Laws of 1886, in regard to posting notices of suspension.

V.

IN THE MATTER OF THE APPLICATION OF THE ROCHESTER AND LAKE ONTARIO
RAILROAD COMPANY FOR PERMISSION TO SUSPEND THE OPERATION OF ITS
ROAD DURING THE WINTER SEASON OF 1888-89.

October 22, 1888.

An application from this company for permission to suspend operations, dated October the 19th, 1888, was filed with the Board.

The road is but six miles long and runs from Rochester to Lake Beach, Irondequoit Bay, and appears to have been constructed and used principally for summer travel. The road has been in the habit of suspending winter operations heretofore, and no complaint has been lodged with the Board. The Board, therefore, deems that the application can be granted without detriment to the public interests.

Permission is hereby given to the Rochester and Lake Ontario Railroad Company to suspend the operation of its road from the 1st of November, 1888, to the 1st of May, 1889, upon complying with the provisions of section 3 of chapter 605 of the Laws of 1886, with regard to posting notices of such suspension.

VI.

IN THE MATTER OF THE APPLICATION OF THE SEA VIEW RAILROAD COMPANY FOR PERMISSION TO SUSPEND OPERATIONS FROM THE FIFTEENTH DAY OF OCTOBER TO THE FIFTEENTH DAY OF MAY, IN EACH YEAR UNTIL OTHERWISE ORDERED BY THIS BOARD.

October 30, 1888.

This railroad is an elevated structure one mile in length, extending from Brighton Beach to West Brighton, Coney Island. It was erected exclusively for summer travel and could not be operated in the winter.

Permission to suspend as requested is hereby granted upon the railroad's complying with the provisions of the law.

VII.

IN THE MATTER OF THE APPLICATION OF THE CATSKILL MOUNTAIN RAILWAY COMPANY AND OF THE CAIRO RAILROAD, FOR PERMISSION TO SUSPEND OPERATIONS DURING THE WINTER SEASON OF 1888-89.

October 30, 1888.

This application, dated October the 29th, 1888, requests permission for this company to suspend the operation of the Catskill Mountain railway and Cairo railroad, between Catskill and Cairo, from Monday, December 10, 1888, to May 10, 1889, and also of that portion of the Catskill Mountain railway, from its junction with the Cairo railroad to Palenville, until June 15, 1889.

These railroads having been built exclusively for summer travel, the Board deems that the application can be granted without detriment to public interests, and such application is hereby granted upon the companies conforming to section 3 of chapter 605 of the Laws of 1886, with regard to posting notices of the application and order.

VIII.

IN THE MATTER OF THE APPLICATION OF THE ROCKAWAY VILLAGE RAILROAD COMPANY FOR LEAVE TO SUSPEND THE OPERATION OF ITS ROAD FROM NOVEMBER, 1889, TO MAY, 1890.

September 24, 1889.

Application having been made by the Rockaway Village Railroad Company for leave to suspend the operation of its road from November, 1889, until May, 1890, and it appearing by papers on file with the Board that public interests would not be prejudiced by such suspension of operation, it is hereby

Ordered, That the Rockaway Village Railroad Company shall be relieved of the duty of operating its road from the 1st of November, 1889, to the 15th day of May, 1890, in accordance with chapter 605 of the Laws of 1886, upon compliance with section 3 of said statute with regard to posting a copy of such order and of the intention of said road to suspend operation.

ACCIDENTS.

I.

IN THE MATTER OF AN ACCIDENT ON THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD, NEAR HANNIBAL, OSWEGO COUNTY, OCTOBER 5, 1888, RESULTING IN THE DEATH OF MARTIN D. SLATTERY, ENGINEER.

November 12, 1888.

The facts and circumstances attending this accident, as brought out by evidence before a coroner's jury, were as follows:

It appears that Conductor Moss and Engineer Slattery were detailed to run a special train, consisting of one car and engine, from Oswego to Suspension Bridge, October fifth, subject to the following telegraph order:

"Run special to S. B., ahead of second-class trains when overtaken, and ahead of 104, run to Hannibal regardless of 161.

"32 O. K. 7.20 A. M.

"F. J. B."

The original of this order was produced and sworn to by the operator as the one presented to Conductor Moss and Engineer Slattery, and by them signed about 7.25 A. M., October fifth. On reaching a point about three miles west of Furniss, this special train came in collision with passenger train No. 107, resulting in the death of Engineer Slattery, and serious injury to Conductor Moss. The engines of both trains were badly damaged, but no other persons were injured.

Train 104 is a regular passenger train, leaving Oswego 7.45 A. M., arriving at Suspension Bridge at 10.25 A. M. Train 161 is a through freight train, leaving Suspension Bridge 3 A. M., arriving at Oswego 9.10 A. M. Train 107 was a regular Lehigh Valley passenger train, using the tracks of the Rome, Watertown and Ogdensburgh from Sterling to Oswego, a distance of sixteen miles, and classed, as above, on general time car No. 31.

Conductor Moss says "Left Oswego with special, Slattery engineer, at 7.27 A. M. After receiving order, looked at it and said 'We can make Furniss for 107, we have plenty of time,' coupled on car and started. We were detained on crossing by cattle, and when I looked out found that we had passed Furniss; then made an effort to pull the cord. Slattery had same orders I had, saw him sign order; both of us signed the same time. I understood it was the duty to stop at Furniss for Lehigh Valley train; also our duty to keep out of way of all regular trains without further notice or orders."

J. F. Riley, fireman, swears "they left Oswego at 7.25 A. M.; did not hear engineer say anything about orders; first saw Lehigh Valley train about 400 feet ahead; it was fifteen minutes late; bell-rope was

attached and ran into car; did not hear bell ring after we left Oswego; did not know whether bell was in proper order or not."

T. F. Maxey, brakeman, Rome, Watertown and Ogdensburgh, says: "Was on special train. We left Oswego about 7.35 A. M.; do not know what the orders were; did not hear engineer say anything about going on branch between Oswego and Hannibal; did not hear him say anything about Lehigh Valley train. When about half mile west of Wheeler's saw this train coming, cried out to engineer and then climbed back over tender into baggage car. Conductor was standing against door, apparently looking out of glass in upper part of door. He spoke and said 'What's the matter?' I said 'We are going into the Southern Central train.' The bell and the cord attached to it were all right on engine; I know it was because I tried it and it worked all right; also the air-brake."

J. S. Hogan, brakeman, says: "Left Oswego about 7.30 A. M.; was in the baggage car with conductor, did not know we were approaching Lehigh Valley train until Maxey came back and told conductor. I know this train came about this time but it was not my duty to keep track of running of train. Saw the conductor go to bell-cord and attempt to ring; did not hear him say anything to engineer about taking side track at Furniss. I removed engineer's watch from his pocket after accident, it was stopped at 7.51."

Rule 141 of general rules and regulations of Rome, Watertown and Ogdensburgh, in force at the date of accident, is as follows:

"The conductor will have general charge of the train and all persons employed on it while on the road, except where his directions conflict with general regulations, or involve risk, in either of which cases the engineer and all participating will be held alike responsible."

In looking over the evidence of conductor, brakemen and fireman it will be seen that the time of starting varies from 7.27 to 7.35, but as the conductor was more particularly charged with the matter of time it will be presumed that 7.27 was the correct moment of starting.

Between Oswego and Hannibal there is but one side track and this at Furniss, five miles from Oswego.

The Lehigh Valley train was due at Hannibal station 7.34 A. M. and Furniss at 7.44 A. M. Hannibal being twelve miles from Oswego, and the schedule time of Lehigh Valley train at that place was 7.34 would show the impossibility of special train leaving Oswego at 7.27 meeting there. The proper and only place to meet was at Furniss, and even here the time was short—only seventeen minutes to run five miles and get out of way, allowing the time of conductor. (The witnesses, however, vary from two to five minutes less.)

The conclusion must be reached that the rules of the Rome, Watertown and Ogdensburgh railroad, together with telegraph order put in evidence and verified by the dispatcher, were proper ones to insure the safety of all concerned if they had been strictly adhered to. It will be observed that rule 141 of general regulations, where risk is involved, holds all participating alike responsible.

The fact that there was but one side track between Oswego and Hannibal, nearly midway, and that there was only seventeen minutes to reach this, a distance of five miles, and the fact of conductor and engineer signing an order that gave them no rights except over

second-class trains, must lead to the conclusion that the Lehigh Valley train was forgotten. It passes comprehension that five men on this special train, two of whom had run train 104 every other day during the summer, which train was scheduled to meet 107 at Shops (a station east of Furniss), should have neglected to side-track at Furniss, when they should have known they were still nearer train 107.

The motive or reason that induced Engineer Slattery to pass this track will remain unanswered — his life was the penalty.

This Board deems it proper to say, however, that Conductor Moss did not do his whole duty. His car was equipped with the air-brake in good working order, also connected with gong in engine by rope, which was also in good working order as sworn to by Mr. Maxey. He knew his time was short to reach Furniss, the detention after starting made it still closer, all of which should have prompted him to be on the alert when approaching Furniss.

A prompt application of air-brake in car, or personally going out on to the engine, might have averted the disaster.

The Board finds that Engineer Slattery and Conductor Moss were responsible for this accident in consequence of their failure to stop their train at Furniss, in order to pass train 107 coming in the opposite direction. Conductor Moss has been dismissed from the service of the company in which the Board concurs.

II.

IN THE MATTER OF A REAR AND SIDE COLLISION ON THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD, NEAR OTISVILLE, OCTOBER 24, 1888, ABOUT 6 A. M., BY WHICH G. W. McMULLEN, A BRAKEMAN, WAS KILLED; CHARLES CLAUSON, A. A. KRONK, WILLARD HECTOR AND JOHN HAWKINS, EMPLOYEES, WERE SERIOUSLY INJURED.

December 4, 1888.

The facts and circumstances attending the above accident, as developed by testimony taken before a coroner and Commissioner Rickard, who made a personal inspection of the premises, were as follows:

Otisville station is near what is known as the Summit; from the latter point to Port Jervis, westward, the average descending grade is about thirty-five feet per mile; from the Summit, eastward, and past Otisville, it is forty feet per mile.

It appears that on the morning of October twenty-fourth, freight train No. 83, twenty-three loaded cars, Hawkins conductor, Doty engineer, passed Otisville, west bound, at 5.55 A. M., and when a point about half a mile west was reached, a flagman of a preceding train, that had stopped to cool a hot journal, was picked up.

The train then drew along slowly about six miles per hour, until the forward train was sighted, when the flagman stepped off and boarded his train, which was then moving. Train No. 83 was then going four miles per hour, when train 131, fast freight of twenty-two

cars, Dotter conductor, Hector engineer, ran into the rear end of train 83, destroying the caboose and throwing it with two other cars on the east-bound track, and obstructing the same. Train No. 14, a regular east-bound passenger train, approached a few moments after the rear collision, and before it could be stopped, ran over the leg of Conductor Hawkins, who had been thrown from the caboose on to the east-bound track, and rendered insensible. This train passed on a few feet further and then collided with portions of the wreck that had caught Engineer Hector, and pinned him to the boiler-head of the engine, the latter collision relieving him and probably saving his life.

George McMullen, a brakeman in the caboose of train 83, was killed; Charles Clauson, another brakeman, severely scalded; Kronk, fireman on engine of train 131, leg crushed and internal injuries, and Hector, engineer of train 131, badly scalded. It is proper to say here that the three latter employees were so seriously injured that they are not yet able to give any testimony in the matter.

Charles Doty, engineer of train 83, says that before he reached the Summit he saw a flagman, whistled brakes, and while going at a speed of eight miles per hour, picked him up. This was a straight piece of track, and, when he had gone about the length of his train (twenty cars), and going around the curve, he signaled by whistle to his own flagman to go back and protect the rear of his train. When he whistled brakes first, his caboose was on the straight, and when he whistled his own flagman to go back, the caboose was about entering the curve: that after he gave this last signal and had run the length of his train (time about two and one-half minutes), and was moving at a speed of four miles an hour, he felt the crash and was thrown from his engine.

J. H. Dotter, conductor of fast freight 131, says he passed Otisville about nine minutes behind No. 83; his train consisted of twenty-two loaded cars and his average time from previous station was from twelve to fifteen miles per hour. "After passing Summit all my men were on top. When I stopped found Flagman Buchanan of train 83 walking back about ten or twelve cars in my train. The average rate of speed for my train per schedule was twenty miles per hour. We passed Otisville 5.59 and struck at 6.05; the distance is about one mile."

Lewis Avery, head brakeman of train 131, says: "Was on top of car from Otisville; we were running about fifteen miles per hour. After passing Otisville should judge our speed increased; was looking out and saw no one ahead; saw the train before we struck, about fifteen car lengths. I saw flag and caboose about the same time; flagman was about five cars back on west-bound track and was not running."

James Buchanan, flagman of train 83, says: "We approached Otisville about eight miles per hour; when coming over the hill we were flagged; went for red lights and before I got them engineer whistled me to go back and I went back as fast as I could. When I got off we were running about eight miles per hour; was back about twenty cars; when they (train 131) stopped their hind car was opposite me. This train passed me twenty-five miles per hour. McMullen and another were asleep in caboose."

Patrick Herald, a night track-walker who had just finished his work, says: "Had just come in my house (which is close to track) when accident occurred; ran out with my red lamp; found the train apart; went through the opening over to east-bound track; noticed two brakemen; asked them if they had flag out; said 'No;' I said, 'Run with my light; there is danger;' I saw the man run to stop train 14; they passed him; I then took my coat and swung it."

Engineer Hicks, of passenger train No. 14, says it was a foggy morning, and the first intimation he had that anything was wrong was a man standing on his track violently waving his coat; this was after he had passed the engine of train 83. "The distance I had to stop was about 700 feet; was running thirty-five miles per hour; were nearly stopped when we struck the wreck; no perceptible damage done to my engine; we backed out of wreck."

Operator at Otisville station swears that train 83 passed at 5.55 A. M., and train 131 at 6.02 A. M. According to the testimony of Mr. Dotter, of train 131, they collided at 6.05. His train had covered the distance of one mile in three minutes; a rate of twenty miles per hour allowed by schedule.

Train 83 passed Otisville at 5.55, and was struck at 6.05, showing ten minutes consumed in covering the same distance, one mile. The reduced rate of speed of this train, incident to picking up flagman and proceeding slowly until train ahead was seen or known to have gone on, necessarily consumed some time. The rear train, having no detentions, soon closed the gap and brought them together on the curve.

It is the duty of a flagman, under every circumstance, to protect the rear of his train, and if Buchanan had immediately gone back when signaled by engineer, he would certainly have been back farther than he testified to, twenty car lengths.

Engineer Doty swears that he ran the length of his train after whistling his flagman to go back before his train was overtaken, and if Buchanan stood still after alighting he would have been in the rear of his train more than twenty car lengths.

Avery swears the flagman was back but five car lengths from his train when he saw him first.

Dotter swears when they stopped he met Buchanan opposite the tenth or twelfth car in his train.

Hawkins, conductor, and James Buchanan, flagman, of train 83, have both been dismissed from the service of the company.

The Board finds that James Buchanan, flagman of train 83, was principally responsible for the collision, for the reason that he was not back as far as he should have been at the time of the accident.

Second. It commends the prompt action of Patrick Herald in signaling passenger train, and Engineer Hicks in stopping his train in such a short distance.

The Board calls attention to the necessity of carefully obeying train rule No. 117—"Trains must never be stopped when the view from behind is not clear."

III.

IN THE MATTER OF AN ACCIDENT ON THE WEST SHORE RAILROAD AT PALMYRA, N. Y., DECEMBER 21, 1888, AT 4.32 P. M., BY WHICH CHARLES YEWDALE, OF HORNELLSVILLE, N. Y., WAS KILLED.

January 29, 1889.

The facts and circumstances attending this accident, as developed by a report thereof from the railroad company and subsequent correspondence, were as follows:

Yewdale started across the west-bound track to take train 59, when train 52 ran between the station and train 59, striking and killing him. The report states that it was snowing and blowing very hard, and that the engineer could not see either him or train 59.

The Board addressed a communication to the road asking if there were not signals which should have been set to prevent train 52 passing the station when train 59 was discharging or receiving passengers. To this Mr. Layng, general manager, replied that the rule of the company "requires approaching train finding another at a station to reduce speed and give all necessary warning signals; that the trouble in this case was that the affair took place in a blinding snow-storm, which obstructed the view of the station and the train at rest at that point."

The Board deems that the rule of the company as given by Mr. Layng does not afford sufficient protection to passengers boarding or leaving a train at rest from the danger of being run over by a train in the opposite direction which does not stop at the station. There are many places where the view of the station is obstructed by a curve or tunnel, or some other obstacle preventing the engineer of an approaching train from seeing that there is a train stopping at the station until too late.

The stations of the New York Central and Hudson River railroad are all equipped with signals; it is the duty of the station agent, or some other employee of the road, to set such signals at danger when a train is stopping at the station, to prevent just such accidents as the one now under consideration.

RECOMMENDATION.

The Board recommends that the West Shore Railroad Company construct signals at least 1,000 feet from its stations, which signals can be set at danger by a wire or other mechanical appliance from the station itself, and instruct its station agents or other employees to set such signals at danger at all times when a train is standing at such station receiving or discharging passengers, or for other necessary purposes.

IV.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD AT CHURCHVILLE STATION, DECEMBER 23, 1888, BY WHICH THIRTY-TWO PASSENGERS AND FOUR EMPLOYEES WERE INJURED.

February 5, 1889.

The facts and circumstances attending the above accident as developed by a personal examination at the place thereof December 28, 1888, by a member of the Board, and by testimony taken before one of its members at Churchville, January 17th, 1889, were as follows:

On Sunday, December 23d, 1888, train No. 8, consisting of an engine, baggage car, smoking car, a day coach and drawing-room car, two sleeping cars, a deadhead drawing-room car, and two Boston and Albany excursion sleeping cars, left Buffalo at 5.50 p. m., one hour and thirty-five minutes late. Nothing unusual occurred until the train reached Churchville, about fifty-five miles east, when at a point a few rods east of the station where a trailing cross-over connects tracks 1 and 2, the entire train was derailed, except the forward truck of the locomotive.

The first evidence of this was two distinct marks of a flange about one inch apart on the ties near the north rail nine feet east of the switch point; opposite this point on south rail the outside angle plate of joint was thrown out of place, and one flange mark was on the ties. From the switch point to the first rail joint in the track, a distance of nine feet, the rails were intact — nothing disturbed, excepting that the west end of north guard rail was slightly raised at the head. From this rail joint east about 150 feet, the south rails were turned over on their sides and the mark of flange was clearly seen in the neck of the rails, the above-mentioned distance. The opposite or north rails were not disturbed, but the marks of derailment were on the ties close to the rail. Thence to the bridge about 100 feet, the rails on both sides of No. 1 track were more or less displaced by the trucks that were bounding along on the ties at a rapid speed. The indications were that there the cars turned to the north, straddled the north rail and proceeded on until the trucks struck the strong bridge-guard timber attached to the floor system; this guard prevented the derailed cars going farther north and kept them in line. The shattered condition of the end of this guard timber, together with other marks its entire length, is positive evidence that it guided the misplaced trucks across this structure over its solid, well-laid, closely spaced bridge flooring in safety.

After crossing this bridge the coupling between the tender and baggage car was broken, and after running about fifty feet the baggage car, smoking car and day coach turned to the south and went over a four foot embankment into the adjoining field. When stopped, the baggage car was at right angles with road-bed lying on its side, the day coach was tipped completely over and lying on its side and the smoking car was partly over.

The locomotive ran about 600 feet further east; the drawing-room car, uncoupled from sleeper, passed the wrecked cars, followed on and stopped near the engine. The remaining cars in the train, while being considerably out of line, did not leave the surface of road-bed.

Mr. Parish, conductor of train, says the speed of the train at the time of the accident was about forty miles per hour.

Mr. Gould, engineer, says that in his judgment they were running about forty-five miles per hour; that nothing unusual occurred until he passed over this switch at Churchville, then he felt the driving wheels drop from the rails; that after shutting off steam he looked back and saw the baggage car bounding on the ties before he got to the bridge; after passing over the bridge, which is a sixty-foot span, the coupling between tender and baggage car broke and the engine ran about six car lengths uncoupled from the train, then he looked back and saw baggage car and coaches tip over; when his engine stopped every wheel was off the track except the forward trucks which were all right; that he ran this engine to Syracuse, a distance of 100 miles, the same night and everything appeared to be all right, not even a nut off.

Mr. Gould also swears that he saw the switch light on the target when approaching and it was white — the safety signal.

Mr. Shea, section foreman, swears that he was at scene of accident in a few minutes, but did not notice the condition of the switch until half an hour afterward, then he looked at the point and found it closed and the spring all right. The stock-rail was sprung a very little and the head of guard-rail slightly raised; the rails on both sides of the track, eastward, a distance of nine feet from the split-point switch were all right in gauge and not disturbed. Commencing at this point, and for about 100 feet east and south, rails were turned over. This switch remained precisely as it was found after the accident for about ten days. New ties had been put under it last summer. This switch had been in since the tracks were laid in 1881.

There were some indications of wear on the stock-rail. Some engines will mark it when passing, others will not. Mr. Shea said he examined the switch each day, and on the day of the accident he last saw the switch about the middle of the afternoon.

Mr. Burns, roadmaster, swears that the first examination he made at the switch he located the first mark of derailment nine feet from the switch point; that he unlocked the switch, and moved it back and forth, and it worked all right, then went west a short distance and looked at line of track, and found it all right to a point nine feet east of switch.

Then made an examination of guard-rails, and the rails at switch points, found the spikes were all in and had not been disturbed, and could not come to any positive conclusion as to the specific cause of the accident. He examined the tire of the locomotive and found nothing that could be pronounced faulty; a badly worn tire would be injurious to the track and switches, for the reason that the worn tire might get between stock and switch rails and spread them, there would also be a danger of splitting frogs and breaking switch rails. Mr. Burns said an employee is on duty at this station night and day, and "if I was to theorize about the matter, would say the switch must have been left open."

Mr. White, master mechanic, swears that the morning after the accident he went to the round-house and examined this engine No. 180, personally, to see if there was anything faulty with the

machinery that would have caused such an accident; that he found nothing broken but a tender spring and pocket, which were replaced; that no parts were absent. Nothing else was done and the engine went out with a fast train (No. 5) December twenty-sixth and is in the same service now, and all the parts, with the exception noted above, are the same as at date of accident.

A tracing was produced by Mr. White, taken from a plaster of Paris cast, of a section of the tire on No. 180.

Mr. White said that the total mileage of this engine up to this time was between twenty-five and thirty thousand miles—the usual mileage for locomotives in this service is about 100,000 miles.

Mr. Otis, general roadmaster, swears that he made an examination of the premises January second; that he found the track and switches in good shape as far as they could be with the natural wear; the rods were all intact, the bearings were good under the switch and down to the first joint east of the switch. "I looked on the top of south rail with a glass of six times magnifying power and I could trace with the glass where the flange had mounted the rail right at the point where the bevel of the switch-rail that is planed would come to a junction with the stock-rail. I then examined everything around to see if there was a loose tie that might have a spring to it, that is, a recoil that might lift a body to the top of the rail, but found nothing; I then examined the coil spring of the switch and found it did not have the elasticity it should have, and that the head of split rail that burrows under the head of stock rail was slightly rolled over—was told that the plate on outside of first rail joint from switch was off and that only one flange mark was on the ties at this point." "This would lead me to think that the forward driver was on the ground at this point, south of the rail and that the rear driver was on the other side, which position rolled the rails and the balance of the train wheels followed in the neck of the rail and then it began to spread everything. The marks on the rail where the fibres of the steel were cut and bruised could be observed very clearly eight days after the accident by the use of the glass heretofore spoken of. In my judgment this switch rail would caliper about three-sixteenths less than a new rail and the switch is calculated to set three-quarters of an inch above stock rail at that point."

In answer to this question by the Commissioners, "Suppose a tire had worn hollow an eighth of an inch, and the plates under switch-rail had been worn into the ties one-eighth of an inch, in your judgment what would be the effect?" Mr. Otis replies, "I don't think it would have any effect unless there was quite a hollow wear on the wheel—it is a gradual wear, it makes a road for itself from day to day and when it gets down to the stock rail it makes a channel through it."

Mr. Burrows, superintendent, and Mr. Gould, assistant superintendent of the division, stated that they had thoroughly examined the premises and could not give the Board any specific reason for such an accident.

An examination of the premises was made by a member of the Board, December twenty-eighth. The first evidence of derailment was observed on the ties, nine feet east of the trailing split switch point on track No. 1, east-bound, on a curve of about two degrees.

No mark of any kind was observed that any foreign substance had been placed in or had passed through between the stock and switch rails.

Slight evidence of a channel made by passing wheels was seen on the stock rail of cross-over, about fifteen feet west of the switch point; this groove ran along the surface of stock rail perhaps three feet in length and from one-sixteenth to one eighth of an inch deep, then tapered off and vanished about ten feet west of switch point. Considerable evidence of wear was observed in the condition of the iron plates under the switch rails; these plates are about one-quarter of an inch thick and had worn into the ties nearly flush. The coil-spring had about one-half its original elasticity. The extreme point of switch rail where it shoulders under stock rail was slightly rolled on top edge.

An examination of the tracks the entire distance where the cars were off, showed the ties to be good size, closely spaced, of oak timber, and in the best physical condition. The bridge over which the derailed cars passed is an iron-deck bridge of sixty-foot span and has an admirable system of flooring; the ties extend across both tracks, are closely spaced, and the guard timbers are of increased size. This system of bridge flooring, recommended by the Board of Railroad Commissioners and adopted by the railways in this State, has proved in this instance a valuable one, attended with most gratifying results. Without a question of doubt the old open system at this place and time would have caused a disastrous wreck.

It is pertinent to say here that the condition of this switch heretofore referred to, was such as would naturally occur in an appliance in constant use for seven years. It is believed, however, that while such wear does not materially impair the safety of such switches, yet it would be better that more frequent renewals be made in the parts of switches used in main tracks; that the plates under switch rails should not remain until flush with the ties, thereby allowing switch rail to drop about a quarter of an inch; that the elasticity of coil-spring should be kept at standard (the space between coils equal to size of coil), and that the height of switch rail over stock rail should be kept as near the standard as possible.

No evidence was given at the examination to show that any employee of the railroad had examined this switch later than the middle of the afternoon of December twenty-third; the accident occurred at 7.28 P. M.

Every effort has been made by the officials of the railroad to arrive at the specific cause of this accident, but at this date they can give none.

In view of the many derailments that occurred in the past year on the lines of railways in this State, and the serious loss of life and injury to person, the Board would suggest to all railway officials the propriety of a more frequent examination of the switches previous to the passage of passenger trains.

Except as to the above suggestions, the Board has no recommendation to make, and is unable to determine the specific cause of this accident.

V.

IN THE MATTER OF AN ACCIDENT AT THE JUNCTION OF THE WEST SHORE AND THE ALBANY AND SUSQUEHANNA TRACKS, LEASED BY THE DELAWARE AND HUDSON CANAL COMPANY, AT KENWOOD JUNCTION, NEAR ALBANY, ON AUGUST 2, 1889, IN WHICH THOMAS CONNIFF WAS KILLED AND TWO OTHER PASSENGERS INJURED, ALL BEING PASSENGERS OF THE WEST SHORE TRAIN.

September 24, 1889.

The facts and circumstances attending the above accident, as developed by an investigation at the scene of the accident shortly thereafter by the inspector of the Board, by an inspection of the premises by one of the commissioners and by testimony taken before this Board on September twenty-third, were as follows:

The trains of the West Shore railroad reach Albany over the tracks of the Albany and Susquehanna road. The junction is at a point called Kenwood, one and one-tenth miles from the depot in Albany. There is a single track road for the trains of both companies from Albany to Kenwood Junction. At this junction the tracks of the Albany and Susquehanna road bear off to the south and west. There is a siding at this point running parallel with the main track.

On the day of the accident train No. 7 on the West Shore road, bound north, arrived at the switch below the junction on time and took the siding as usual. On reaching the junction this train becomes No. 110 on the special time-table of the Delaware and Hudson Canal Company, No. 22, B series, and is thereafter run under the direction of the latter company, as are all trains of the West Shore road while in transit between Kenwood Junction and the Albany depot. This junction is considered the same as any station by the rules governing the movement of trains on the Delaware and Hudson road.

Train No. 3 of the Delaware and Hudson Canal Company is scheduled to leave Albany at 4 p. m. and Kenwood Junction at 4.07 p. m., giving seven minutes running time for one and nine-tenths miles, or a little over sixteen miles per hour. By special orders trains are limited to fifteen miles per hour within the yard, which extends to the junction switch. On the day in question train No. 3 did not leave on time, but subsequent to train No. 10 of the West Shore road (111 Delaware and Hudson), as will be seen. The latter train is scheduled to leave Albany at 4.05 p. m. and pass the junction at 4.15 p. m.

Train No. 7 of the West Shore road, which, as before stated, becomes train No. 110 on the special time-table of the Delaware and Hudson Canal Company, leaves the junction at 4.15 p. m., and has the right of road into Albany, arriving at 4.30 p. m.

On the day of the accident, train No. 3 (Delaware and Hudson), as stated before, was delayed in starting from the Albany depot and train No. 111 left on its proper time, 4.05 p. m., and passed Kenwood Junction on time, 4.15 p. m. Train No. 110 (West Shore) then proceeded to back out of its siding on to the main track, as was its right to do. The junction switch was left in position for its movement north, it having the right of road under rule No. 81. At this moment train No. 3 (Delaware and Hudson) came around the curve, ran through the switch and collided with train No. 110 as it was crossing

backwards from the siding to the main track. Two day coaches and a parlor car were turned over on their sides, and Thomas Conniff, a passenger on the West Shore train, was killed by falling under or between the platform roof; Mrs. E. N. Pitman, of Troy, and Mrs. Hudsey, of Hudson, passengers on the West Shore train, were injured.

Julius Perkins, engineer of train No. 3, had applied the brakes and reversed his engine, but was unable to stop the train in time to prevent the accident.

It appears that Conductor Ackert, of train No. 3 of the Delaware and Hudson Canal Company, believing that he could reach the junction immediately behind the West Shore train, followed the latter, leaving Albany at somewhere between 4.08 and 4.11. Knowing his train to be out of its proper place and behind the limit of time to make the run to Kenwood Junction, it was clearly his duty to hold his train until after the arrival of train No. 110 at Albany, or he should have obtained orders against that train.

Julius Perkins, engineer of train No. 3, was also at fault in leaving Albany, for the same reason as the conductor.

It can be said, however, in mitigation of the errors of these men, that they bear a good reputation in all respects as careful and judicious employees.

It is furthermore somewhat singular that Perkins did not see the target of the switch at the junction set against him. He swears that he did not, however, and that his first intimation that the switch was wrong was seeing the rail out of place. He appeared to have his mind more directed upon not overtaking the West Shore train ahead of him and going in the same direction, than on that at the switch coming up in an opposite direction. It is more than probable that he was going at a higher rate of speed than he was justified in doing.

From a careful consideration of the circumstances attending this accident, the Board is of the opinion that there will always be grave conditions of danger so long as a single track alone exists to conduct all trains of the West Shore and of the Delaware and Hudson Canal Company's road from this junction to Albany.

RECOMMENDATIONS.

First. The Board recommends that the Delaware and Hudson Canal Company construct, at the earliest moment practicable, a double track from the junction at Kenwood to a point near the foot of Church street, in Albany; that the trains be run thereon under what is known as the block system, so as to prevent the possibility of the trains of the Delaware and Hudson Canal Company or the West Shore Company colliding with each other at the cross-over. There does not appear to be any necessity, even if it were practicable, to construct a double track beyond the point mentioned, viz.: from the foot of Church street to the Albany depot, for the reason that on this portion of the track through the streets of the city all trains run at a very low rate of speed, and each train is preceded by a man with a flag.

Second. Until the construction of this second piece of track, the Board recommends that a semaphore be erected north of the junction, interlocked with the switch, to prevent trains from the north colliding with trains from the south at this junction.

Third. That a semaphore be erected at a safe distance south of said junction switch, on the tracks of the Delaware and Hudson Canal Company, interlocked with the switch, so as to prevent north-bound trains on the Delaware and Hudson road colliding with north-bound trains from the West Shore. Both semaphores to be operated by the switchman at the junction point.

So long as all north-bound West Shore trains stop at this junction, as the Board is informed they now do, there appears to be no necessity for a semaphore on the West Shore road south of the junction.

VI.

IN THE MATTER OF AN ACCIDENT ON THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD AT FOREST LAWN, ON THE MORNING OF AUGUST 10, 1889, BY WHICH MISS E. L. PERRIN, JOHN DAY AND LOWELL C. BROWN WERE KILLED AND FIVE PASSENGERS MORE OR LESS SERIOUSLY INJURED.

September 30, 1889.

The facts and circumstances attending the above accident, as developed by an examination at the scene of the accident shortly thereafter by the inspector of the Board, and also by a Commissioner and by testimony taken before this Board on September the thirtieth, were as follows:

Passenger train No. 181 leaves Rochester at 7.15 A. M., runs to Windsor Beach, from thence backing up to Forest Lawn, five miles, when it becomes 182. No. 181 is due to arrive at Forest Lawn at 7.47 A. M., and No. 182 leaves same station at 7.50 A. M. and returns to Rochester. This train is for the accommodation of cottagers who are in the city during business hours and return to the lakeside in the evening.

August 10, 1889, train No. 181 was five minutes behind time at Windsor Beach, and obtained orders from Train Dispatcher Sheridan H. Fish to proceed to Forest Lawn, regardless of No. 122 and No. 182, which it did, arriving at Forest Lawn at 7.51 A. M., four minutes behind time. Just as train No. 181, which consisted of three day cars and one combination car came to a standstill opposite the Forest Lawn depot, train No. 122, which was one hour and fifty minutes late, came around the curve on which the depot is located, striking the rear end of train No. 181, telescoping the two rear coaches. Train No. 122 consisted of a baggage car, one day coach, three sleeping cars and three empty day cars in the rear. The engine was thrown to the north side of track, its tender demolished, but the locomotive remained upright. The day coach telescoped about nearly through the baggage car; the first sleeper lost its platforms but was not overturned, and the remaining cars did not leave the rail. The baggageman escaped without injury.

There were ten passengers in the day car between the baggage and sleeping car. Of these, Miss Ella L. Perrin was killed outright, Lowell C. Brown had one leg torn off and died the same day, John Day received internal injury and died before reaching the hospital at Rochester, where all the injured were taken as soon as possible by

special train. Henry M. Perrin and his wife, parents of the young lady killed, received flesh wounds and a broken collar bone. Frank Bell had his left leg broken, Miss Sarah M. Sweet was very severely injured internally and Mrs. Lewis Moore had her right leg fractured.

The passengers at Forest Lawn were about to enter the rear cars of train No. 181, which had now become train No. 182, but seeing the express train (No. 122) swiftly approaching they fell back and none were injured excepting one gentleman slightly. The fireman of train No. 122, Johnston Milo, was looking out ahead on the inside of the curve and could first see the rear car of train No. 182 across the slope of the earth cutting, he could not have been over 700 feet away from the rear car where he could first see it. He called out to Engineer Andrew Tiffany to stop. Tiffany applied the brakes and reversed his engine.

At 7.41 A. M. the operator and agent at Forest Lawn, C. P. Clarke, received an order from the dispatcher to hold train No. 122 and at once put out a red flag on a staff about six feet high with an iron point at bottom which he stuck into the platform fronting the station as usual, and it remained there until knocked down by the wreck. The rear car of train No. 182 was partly east of the flag and hid it from view. Without any obstruction the flag can not be seen from an engine approaching from the east a distance of more than 650 feet. The grade of the road is descending to the west at about thirty-five feet per mile.

At Union Hill, seven and one-half miles east of Forest Lawn, Conductor Soule and Engineer Tiffany of train No. 122, at 7.40 A. M., received train orders "not to pass Sea Breeze," which is two miles west of Forest Lawn, "until No. 157 arrives, and look out for train 156 ahead at Parma." Nothing however, was said about train No. 182. On this road west-bound trains have the right of road over east-bound trains. Trains following each other are required to keep five minutes behind the leaving time of trains preceding.

In the rules governing the movement of trains by special order, rule 132 provides that, "when trains running in opposite directions are to be moved toward each other by special order, the train having the right to road shall be held or blocked off before orders are given to the inferior train."

A careful inquest was made by the coroner's jury of the circumstances attending this accident, and the following verdict was found:

"The jury censures Engineer Tiffany, of the Thousand Island Express, No. 122, for not approaching Forest Lawn station with his train under such degree of control as to enable him to stop the train after coming within sight of the flag at the station, knowing, as he did, that a first-class west-bound train was scheduled to leave that station one minute before his train would arrive. The jury also censures Train Dispatcher Sheridan H. Fish for ordering the Forest Lawn train to Forest Lawn with such limited time to make its stop and return. The jury also censures the Rome, Watertown and Ogdensburgh Railroad Company for its method of running trains to Forest Lawn and return, and its insufficiency of signals at that station."

This Board concurs substantially in the finding of the verdict.

Train Dispatcher Fish showed bad judgment, bordering upon recklessness, in ordering train No. 181 to Forest Lawn regardless of train No. 122, knowing the short length of time within which train No. 181 could make the trip. Engineer Tiffany undoubtedly encroached more or less upon the five minutes which he should have allowed to have elapsed before moving in to the Forest Lawn station. There is some conflict of testimony as to whether the collision took place at 7.51 A. M., or 7.53½ A. M., but under the rules of the company, as the leaving time of train No. 182 was 7.50 A. M., Tiffany should have allowed five minutes to have elapsed, or 7.55 A. M. to have arrived, before going into the station, except with his train under absolute control.

The Board also finds that the rules of the Rome, Watertown and Ogdensburgh railroad are defective, in that rule No. 132 does not clearly explain how trains shall be held or blocked off. The Board is of the opinion, as has been frequently stated by it before, that an inferior train should not be ordered up against a superior train until the train dispatcher has received an acknowledgment from the engineer and conductor of the superior train that they understand where the meeting point has been changed to. This principle is recognized in the code of rules for the movement of trains by telegraphic orders finally adopted by the General Time Convention, October 12, 1887, as embodied in Rule No. 510.

The Board is further of the opinion that the stations of the Rome, Watertown and Ogdensburgh railroad should be protected by distant signals to be operated by an agent at the station, so that when a train is standing at the station it can be protected from an approaching train in either direction by a signal set from the station. Such device is in general operation on many of the railroads of the State, and the Board deems that it should be adopted by all.

RECOMMENDATIONS.

The Board recommends that at all stations where a passenger train stops, signals be erected at a safe distance in both directions, to be operated from the station itself, so that the semaphore can be thrown to danger when trains are so stopping; this in addition to the red flag or signal to be put out at the station itself.

Second. That rule No. 132 of the Rome, Watertown and Ogdensburgh Railroad Company shall be amended so as to read:

"When trains running in opposite directions are to be moved toward each other by special order, the engineer and conductor of the train having the right to road shall be notified, and their acknowledgment received, before orders are given to the inferior train."

The Board subsequently modified the above decision as shown in the letter hereto attached:

November 12, 1889.

CHARLES PARSONS, JR., Esq., *Vice-President Rome, Watertown and Ogdensburgh Railroad Company:*

SIR.—Your communication of November 4th, 1889, inclosing a communication from E. S. Bowen, general manager, to you, dated October 31st, 1889, with reference to a modification of the decision of this Board in regard to the Forest Lawn accident, has been received.

The Board deems that the rule, as suggested by it, is of the utmost importance to prevent collisions. It is willing, however, to modify it to

the following extent, to wit: "This rule shall only be deviated from in cases of emergency or accident, when orders cannot be communicated to the conductor and engineer of the train having the right of road, or in cases where such train is greatly behind time, in which cases station agents may be ordered to hold such train for orders, but shall not be permitted to give back the '32' until after they have displayed a red signal."

The Board has no objection to the rule being supplemented by the insertion of the words suggested by the general manager, viz.: "Meeting orders must not be sent to trains at a meeting point when possible to avoid it, but when so sent, special precautions must be taken by dispatchers and operators to insure safety. When practicable, there must be at least one telegraph station between those at which opposing trains secure meeting orders."

By the Board.

WILLIAM C. HUDSON,

Secretary.

VII.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD NEAR SPRAKER'S STATION, SEPTEMBER THE 27TH, 1889, ABOUT 11.43 P. M., BY WHICH THREE PERSONS WERE KILLED AND NINE INJURED, OF WHOM W. H. MANNING OF MARQUETTE, MICH., DIED THE FOLLOWING MORNING.

November 12, 1889.

The facts and circumstances attending the above accident, as developed by testimony before the coroner's jury, by testimony before the Board of Railroad Commissioners and by an examination of the premises shortly thereafter by Commissioner Rickard, were as follows:

The first section of train No. 5, known as the fast Chicago Express (consisting of three sections), left Albany station, going west, at 10 p. m.; the second section following at about 10.05 p. m.

The first section consisted of locomotive No. 714, one baggage car, three common coaches, Wagner sleeping car "New Mexico," private car "Kankakee," of the C., C., C. and I. R. R., and the private car of the president of the Michigan Central railroad; Engineer William Weeks, Conductor Charles Abell, and Rear Brakeman Allen Patten.

The second section was made up of locomotive No. 683, one baggage car, six sleepers; Engineer Horth, Conductor Dillon.

At a point about three-quarters of a mile west of Spraker's station, the first section stopped on account of a burst in the steam chest on engine 714. The second section crushed into the end of the private car of the Michigan Central road. The rear of this car for about ten feet, was fitted up as an observation room, and was crushed through for about eight feet. The remainder of the car, owing to its unusual strength, was comparatively uninjured. The car ahead, the "Kankakee," occupied by the president of the C., C., C. and I. R. R. and others, was injured comparatively little. It appears that the rear end of this car was pressed down, tilting up the forward end, which telescoped the Wagner sleeping car "New Mexico," ahead of it.

The "Kankakee" was some eight or ten inches narrower than the "New Mexico." Had the frame of the "Kankakee" been the same width as that of the "New Mexico," it is probable that little or no

injury would have been done. As it was, however, the resistance that it met was only from the interior construction of the "New Mexico."

The dead and the wounded were all found in the latter car, except the porter of the "Kankakee," who was in the forward part of that car, and was killed when the telescoping took place.

Rule No. 87 of the New York Central road, with regard to the movement of trains, provides "Passenger trains running in the same direction must keep not less than five minutes apart, unless some form of block signal is used."

It is the practice of the company to post at each station figures indicating the time of the passage of the last train. These figures are illuminated at night, so as to be plainly seen.

It appears from the evidence of William Weeks, the engineer of section No. 1, that when he reached a point near Yost's station he noticed the escape of steam from the steam chest of the locomotive. He could not account for it, but thought that it probably came from a defect in the packing of the valve stem. He says that he did not stop immediately, being only about six miles from Palatine Bridge, where he could have stopped with perfect safety, and he thought that he could run to that point.

He also draws attention to the fact that he was on a curved track when he first noticed the escape of steam, and deemed that it was his duty to reach, if possible, a straight track before stopping his train. Rule No. 117 of the general instructions of the railroad provides that "trains having occasion to stop on the road from any cause, must stop where the view is long and clear."

He also claims that immediately before stopping he whistled for the brakeman to go to the rear to protect his train.

Criticism has been made of Engineer Weeks' conduct, to the effect that he displayed bad judgment in not stopping immediately upon the discovery that there was something wrong with the engine. The Board is hardly prepared to agree to this view of the case. As Weeks stated, in which the experience of most engineers sustains him, there is very likely to occur, from time to time, some little escape of steam such as he noticed, which would not justify the stopping of a train such as this, particularly when within a few miles of a regular stopping place.

The bursting of a steam chest is a most unusual occurrence and one which he could not have anticipated. It is also to be taken into consideration that Weeks is a locomotive engineer of many years standing, fifty odd years of age, and that he has always borne a good reputation upon the road as a careful and competent man. While it turns out that it would have been better for him to have stopped immediately upon this occasion, his mistake in judgment, if a mistake at all, was of the kind that hardly justifies censure.

The conduct of Allen Patten, the rear brakeman, is one with regard to which considerable conflict of evidence exists. He testified before the Board that before the train stopped, while still running at the rate of five or six miles an hour, he got off, and went to the rear. The point where he claimed to have reached was indicated by him to the authorities of the road, the distance measured and found to be 1,180 feet.

Engineer William Horth of the second section, however, testifies that he saw the rear lights of section No. 1 at the same time that he saw those of Patten; that it did not appear to him that he was more than 500, or at the most 600 feet from the rear of section No. 1 when he saw Patten.

It is perhaps also proper to say that the porter of the rear car of the first section states, though not under oath, to the authorities of the railroad, that Patten did not go back immediately upon the stoppage of the train, but after having left the train went toward the forward part and then back. The probabilities that Patten did not go as far as he states that he did, and possibly thinks that he did, are evidenced by the fact that the second section did not more reduce its speed, if not entirely stop, before colliding. Had Patten reached 1,180 feet from the first section it would seem that the second section should have reduced its speed to a rate not to have done such serious damage. Either Patten was not back to the point that he says he was, or the brakes of the second section did not operate properly. There is nothing to show that the latter was the fact.

Engineer Horth, immediately upon seeing Patten, reversed his engine, and, as he states to the Board, stood on the step while he pulled the lever of the sand-box to be sure that the wheels should catch, and there remained until the collision occurred. He was severely injured — both legs being broken.

There is nothing in the evidence to show positively that any blame rests upon Horth, unless it be that after passing Yost's station he encroached upon the five minutes interval which he should have allowed between his train and the preceding one.

There is considerable conflict of testimony upon this point. The station agent at Yost's, Joshua Suits, testifies that the first section passed at 11.26, and that he so posted it: that the second section passed at 11.35. This would have made nine minutes interval, and would have justified Horth in maintaining his schedule speed. Horth's fireman, however, John Slater, testified that the figures posted at Yost's were 11.31. This would have given but four minutes interval. If such was the fact, Horth should have diminished his speed after passing Yost's. The conflict on this subject, however, is such that the Board is disposed to believe that Horth was at least five minutes behind the time of the first section. His conduct in remaining at his post, and sprinkling the sand on the track in the face of great danger was highly commendable.

CONCLUSIONS.

After a careful consideration of all the circumstances attending this accident, the Board is of the opinion that the principal cause thereof was the rule of the New York Central and Hudson River Railroad Company permitting these sections to be run at as close an interval as five minutes. It is to be considered, however, that the company only adopted this rule after its adoption by the time convention. This body consists of the general superintendents or general managers of a large number of the railroads of the United States. A special committee made up of the representatives of the prominent roads of the country, formulated the rule after long consideration.

In view of this accident, however, the Board is of the opinion that the interval of time is too short. If for any cause the train in advance cannot stop instantly, but consumes, say a minute and a half, in coming to a stop, it leaves but three minutes and a half for a brakeman to get back to signal the following train. On a slippery or stormy night with his lamps, it is quite possible that he cannot make more than 1,200 feet in this time. This is too short an interval of space for a train at high speed, under all the circumstances, to be from the preceding train.

That a local train can with safety leave a station five minutes after the departure of an express train, is undoubtedly true, but the Board is clearly of the opinion that an interval of not less than ten minutes should be required between passenger trains of the same class in the same direction, or sections of the same train following each other, unless a block system be used.

The Board has been investigating the matter of block systems, but has not yet sufficient data to express a positive opinion upon the subject.

Such a system upon the New York Central road exists between the Grand Central depot and Spuyten Duyvil. The Board is of the opinion that it might be extended, with benefit, as far as Croton, between which point and New York the trains are very numerous. Whether it be necessary to extend it the whole length of the road, the Board at present is not prepared to express an opinion. There is no doubt that very considerable delay in the movement of trains would ensue, unless the block stations were close together, in which case the expense of management would be very great. It is also to be considered that if such a system be essential for safety on the tracks of the New York Central road, where there are two freight and two passenger tracks, it would be still more so on every other railroad in the State. The Board would not feel justified in taking such a radical step as this until satisfied that such system was essential for the safety of travel.

The Board deems that if the ten-minute rule be adopted, with the present system of blocking the road by time indicators at the stations as hereinbefore described, there would be little or no danger from rear collisions, if the rules of the company are strictly enforced.

RECOMMENDATIONS.

The Board recommends,

First. That the New York Central and Hudson River Railroad Company amend rule No. 87, so that it will read "Passenger trains running in the same direction must keep not less than *ten minutes* apart unless some form of block signal is used."

Second. That the railroad company take into consideration the subject of equipping the entire line with block signals, and particularly that portion between Spuyten Duyvil and Croton, and submit to the Board of Railroad Commissioners an estimate of the cost thereof, and of the practicability of the same so as not to interfere with the punctuality of service, particularly of local trains.

Third. That all six-wheel trucks be equipped with a brake on every wheel instead of as at present, brakes only on the outside wheels.

ACCIDENT INQUIRIES.

BUFFALO, ROCHESTER AND PITTSBURGH.

February 21, 1889—C. H. Perkins was injured while attempting to drive over the tracks at Wyoming. The company, in response to inquiries, said that the crossing was not protected at the time of the accident, and that the view was, in one direction, somewhat obstructed.

DELAWARE AND HUDSON CANAL COMPANY.

October 5, 1888—Four miles east of Otego, John Williams was injured on a highway crossing; it is said that his horse became unmanageable and ran in front of engine. In reply to inquiries the company said that the crossing was not protected by either gates or a flagman, but the view was entirely unobstructed for some distance.

October 20, 1888—Train No. 8 collided with a West Shore train in the Albany freight-yard at 9.11 a. m., and slightly injured C. F. Dutton, of Brockton, Mass. The Board wrote asking who was responsible for the West Shore train so running, and what, if any, action had been taken. In reply, Superintendent Hammond said that the collision was due to the carelessness of man in charge of West Shore train, and that the circumstances had been referred to the officials of that road. A copy of the above letter was then sent to J. D. Layng, general manager of the West Shore, with a communication from the Board, asking for circumstances of collision, etc., and the following was received in reply:

Answering fully your favor of November twentieth, with regard to the collision between West Shore, and Delaware and Hudson trains at Albany on October twentieth, I do not accept as a fact the statement that Mr. Hammond made with regard to the matter. We have undoubted evidence that the station master of the Delaware and Hudson told the train men of the West Shore train to back up into the yard, and that this had been the practice admits of no denial. I think myself that our train should have been protected by a flag in backing up against an over-due train of the Delaware and Hudson road; but this accident, although insignificant in its character, developed the fact that they had always been working under the instructions of the station master when backing over into the yard against an over-due train. It was fortunate that the accident was not one involving injury to anyone and no great amount of damage to property, while developing as it did the fault in the system, which I state for the information of the Board has now been corrected.

(Signed,) J. D. LAYNG,

General Manager.

October 28, 1888—Mrs. Desmond while crossing the track at Lawrence street, Albany, was struck and injured. Inquiry elicited the fact that the crossing was unprotected on account of its being

Sunday, and that the view was partly obstructed by some cars which were on a side track near the crossing.

November 21, 1888 — At the Broadway crossing, Albany, work train with engine No. 125 struck and injured an unknown man. In answer to a letter, the company said that the view was unobstructed and that the man had been warned by flagman, who was stationed at the crossing.

December 17, 1888 — Train No. 23 approaching Waterford Junction collided with train No. 42, injuring Archie Adkins, an express messenger. A letter of inquiry was sent asking who, in the opinion of company, was responsible and what discipline had been administered. The company in reply stated that Engineer E. Smyth, of train No. 23, and C. Daley, signal man, had been dismissed from service, and that Engineer Hines and Conductor Bolster, of train No. 42, had been suspended without pay for thirty days.

January 25, 1889 — Train No. 2 (passenger) ran into a street car at Tibbett's crossing, Green Island, and slightly injured the following passengers: Albert Friebes, B. F. Dingley and John Kennedy, all of Cohoes. Inquiry shows that the crossing has a set of gates and a flagman, but at the time of the accident the dense fog prevented him from seeing any distance up the track; and on this account he notified the conductor of the horse car that he had better not cross until he could determine definitely whether any train was coming or not, but the horse-car employees did not heed his notice.

February 25, 1889 — At Whitehall, the following collision occurred: Conductor Joseph Matthews, with Whitehall yard-train, was working at Lake station switch, north of Whitehall tunnel, when Conductor George E. Terry, with wild train going north, without a flag, ran into the siding and struck the yard engine. In jumping from the engine, T. Dorcal had one foot injured, and J. Starr his back slightly injured. Conductor Terry and Engineer Sullivan both supposed they had passed the switch-engine south of where it was at work. In reply to a communication from the Board, asking what the rules of the company were with regard to yard-train working north of tunnel; who, in opinion of authorities, was at fault, and what discipline had been administered, the company said that in their opinion the Conductor George Terry and Engineer J. Sullivan, of the wild train, were at fault, in not ascertaining before leaving Whitehall where the switch-engine was at work, and in not protecting themselves against it. Terry and Sullivan were both discharged. The following copy of rules were also inclosed:

Rights of Switch-engines.

Whitehall — The Whitehall switch-engine will have the right to run wild between Whitehall and Lake station, between the hours of 6 A. M. and 7 P. M., daily, excepting Sundays.

Port Henry — The Port Henry switch-engine will have the right to use the main track between the south end of the tunnel and the Champlain switch, between the hours of 6 A. M. and 8 P. M., daily, excepting Sundays.

All other wild trains or irregular trains will run subject to the rights of the above engines, unless specially ordered to run regardless of them.

March 3, 1889—Engineer George M. Marland, of Binghamton, N. Y., was fatally scalded in a collision between two wild trains, one and a quarter miles east of Wells' Bridge. Inquiry was made, asking for circumstances in detail; who in opinion of railroad company was responsible, and what, if any, discipline had been administered. In reply, the company said that the collision was the result of wrong train orders given by the train dispatcher (H. F. Walker), who has been dismissed from the service of the company. Further inquiry was then made by the Board, asking for the nature of the wrong orders that were given; also the age of train dispatcher and length of time in service of the company. The following reply was received: "In reply to yours of March twentieth I beg to say, the orders referred to were as follows: To Connors and engineer, Oneonta, 'Run wild to Nineveh,' and to Saxton and engineer, Unadilla, 'Run wild to Oneonta.'" Of course, as these were both irregular trains, neither of them was looking out for the other. The mistake was that of the train dispatcher in not providing a place for these trains to pass. Mr. Walker was 32 years of age, and has been in the employ of this company about fourteen years, ten of which have been in the capacity of train dispatcher.

May 14, 1889—At machine shop crossing, Green Island, Noah Hibbard (employee), was killed; caused by engine, on which he was sitting, running into a wagon. Inquiry elicited the fact that the crossing was not a public highway; it was not protected, and the view of the main track from the approach is entirely cut off; but since this accident the crossing has been discontinued.

June 6, 1889—John Sullivan (employee) was killed in a collision at Westport. Collision occurred in the following manner: Wild freight train, going south, left Wadhams' Mills with time to run to Westport ahead of and clear No. 4 ten minutes by the conductor's watch, which proved to be eleven minutes slow. When the train arrived at Westport, and as a brakeman had just alighted to turn a switch, train No. 4 ran around the curve and before it could be stopped collided with the rear of wild freight. The Board wrote asking who, in the opinion of the company, was responsible for this accident besides Conductor Holloran of wild freight; was not L. Lortee, the engineer of freight, also responsible, and what discipline has been administered? The company, in reply, said that they were unable to find anyone directly at fault in the matter excepting Conductor Holloran and the engineer of wild train who they consider indirectly responsible. In response to a later communication from the Board, the company stated that the discipline administered to conductor and engineer of freight was suspension from duty, without pay, for ten days.

June 19, 1889—John Brown (passenger) was injured in a collision at Quaker Street, N. Y. Inquiry shows that collision was caused through the carelessness of the switch tender, who left switch open letting passenger train No. 7 in on a side track where it collided with a freight train. Switch tender has been dismissed from company's service.

July 9, 1889—A short distance north of Cohoes a gravel train collided with freight train No. 36, killing N. Copiote, an Italian

laborer. In reply to a letter from the Board, in which they ask for circumstances in greater detail, who the company considered responsible, and what discipline had been administered, the company said: The cause of the accident just north of Cohoes, on the ninth inst., was gross negligence and disregard of general rules as well as special orders on the part of Engineer Blake. Blake has been dismissed from the company's service and afterward arrested on a criminal charge.

DELAWARE, LACKAWANNA AND WESTERN.

October 21, 1888 — Brakeman Frank L. Warriner was killed and Engineer A. V. Scott injured at York in a collision. In response to inquiries made by the Board, the following letter was received:

SCRANTON, PENN., November 7, 1888.

DEAR SIR.—Replying to yours of thirtieth ult., beg to say that the direct cause of the accident near York, is no doubt attributable to the engineer being asleep. The flag was out a proper distance, and the caboose of the leading train, with the red lights displayed on it, could be seen for at least a half mile back from where accident occurred. At the time of accident the engineer had been on duty but eight hours, and had been off duty nine and a half hours before starting out.

The engineer has not been in a condition to talk on the subject thus far, but the evidence and circumstances connected with the matter all go to show he was asleep.

The accident occurred on an up grade, and the fireman claims he was putting coal into furnace until just before the collision occurred. He also says that as soon as he saw a collision was inevitable, he jumped off the engine, and in looking back saw the flagman back of his (the fireman's) train. The engineer will, so says his doctor, recover; but unless something comes up to entirely change present aspect of the matter, he will not be again employed by this company. His conductor and rear brakeman have been discharged for not having torpedoes on track, in accordance with the rules of the company.

Yours truly,

W. F. HALLSTEAD,

General Manager.

January 5, 1889 — Extra coal train No. 31 was ascending a grade when the coupling between engine and first car parted throwing Frank Borden, fireman, under the train, and instantly killing him. In reply to inquiries made by the Board the company says that the accident occurred about one and one-half miles north of Greene station, and cars were coupled with a link and pin. They were unable to say what caused the link to break, as there was no visible defect in it.

September 23, 1889 — At about 5.35 P. M. passenger train No. 3 was derailed near Ithaca, causing the death of Orlando Seeley, engineer, and injuring Charles Parmenter, fireman, A. F. Eckert, conductor, and James McNulty, brakeman. In reply to a letter of inquiry from the Board the following letter was received:

SCRANTON, PENN., October 9, 1889.

DEAR SIR.—In compliance with your request of third inst., I herewith send you copy of coroner's inquest relative to the accident which occurred on our road near Ithaca, September twenty-third. I also inclose statement of the evidence we have that a boy named Charles Hoose put a spike or spikes on the track, which no doubt caused the wreck. The boy who is 14

years old has been arrested, and committed under bail of \$2,000 to await action of grand jury. The hearing is set down for the sixteenth instant. The district attorney of Tompkins county has the case in charge.

Yours truly,

W. F. HALLSTEAD,

General Manager.

On October 17, 1889, a letter from Manager Hallstead said that the grand jury had indicted the party arrested for placing spikes on rail.

ELMIRA, CORTLAND AND NORTHERN.

October 21, 1888 — John Traver (passenger) and Philip Buchner (employee) were injured; caused by parties maliciously misplacing a switch, and derailing passenger train No. 13, at a point one mile west of Breesport. In reply to a letter asking what reason they had to suppose that switch was maliciously misplaced, the following letter was received:

ELMIRA, N. Y., November 2, 1888.

Board Railroad Commissioners, State of New York:

GENTLEMEN.—Referring to the accident of October twenty-first, caused by a misplaced switch at Breesport brick-yard, we assumed the switch was maliciously turned, from the fact that the last train went in on the siding about 3 p. m., of the twentieth. They went in with the engine head first to push some cars down for more convenient loading. They then backed out; the conductor (Worden) closed and locked the switch in sight of the engineer; the engine was coupled on and the train passed over the switch, as also did our passenger No. 4 and a wild coal train.

Respectfully,

A. ALLEN,

General Superintendent.

FITCHBURG.

October 24, 1888 — At Eagle Bridge the rear of wild east-bound freight train was run into by train No. 33, while standing on main track insufficiently protected; injuring Engineer. Fred D. Van D. Voort and Conductor W. F. Grey; the passengers all escaped. Inquiry was made asking what discipline had been administered to the crew of freight train for failing to protect rear of train. In reply Division Superintendent J. Crandell stated that he had suggested that Engineer E. J. Beckwith should be suspended for at least twenty days for failing to take the side track and keep out of the way of train 33 according to "Rule 83 A," and had dismissed Conductor J. Furlong for the same reason, and also for failing to attend to the protection of the rear of his train; and Rear Brakeman R. J. Bancroft had been dismissed for insufficient flagging.

October 24, 1888 — Mr. and Mrs. Charles Brandmill, while attempting to drive over the tracks at Brook's crossing, near Rotterdam, were struck and killed by train No. 32. Inquiry shows that the crossing was not protected by either a gate or a flagman, and the view was unobstructed.

September 23, 1889 — Conrad Hoffman, while attempting to drive

across the tracks at Green street, Troy, was struck and injured by a Fitchburg engine, No. 136. Inquiry elicited the fact that the street was only an alley, which was not protected, but the view was unobstructed and train was going very slow.

LONG ISLAND.

October 24, 1888 — Mrs. Fannie Vopelik was killed at Fresh Pond while attempting to cross the tracks. Inquiry showed that accident occurred about 500 feet west of crossing, at a point used only as a foot-path.

November 23, 1888 — As train No. 5 approached the station Andrew Hagan drove upon the track, at the crossing west of Glendale, directly in front of engine and was slightly injured. The company, in reply to a letter from the Board, said that the crossing was not protected by either gates or a flagman, as it is one seldom used; but the view was entirely unobstructed.

December 6, 1888 — At Clarenceville a man by the name of Thomas Ellen drove upon the track right in front of engine, disregarding the signals. He was struck and killed. Inquiry elicited the fact that the crossing was not protected, while the view in both directions was perfectly unobstructed.

January 13, 1889 — At the first crossing east of East Hinsdale T. Christ was killed and Eva Horkoner injured, while crossing the track. Inquiry shows that the crossing was unprotected and the view to approaching party was partly concealed in the west, while an east-bound train could be seen 1,015 feet away.

January 14, 1889 — John J. Woodhull, while attempting to drive across the tracks at Manor, was struck and injured by train No. 572. The company, in response to a letter from the Board, said that the crossing was unprotected, but the view was entirely clear.

May 30, 1889 — Passenger train No. 363 and construction train collided on Manhattan crossing, at East New York. On July 16, 1889, the Board wrote asking if there was an interlocking switch and signal apparatus at the crossing, and, if not, did both trains come to a full stop in accordance with section 5, chapter 439, Laws of 1884; who, in opinion of road, was at fault and what, if any, discipline had been administered? In reply the following letter was received:

NEW YORK, July 27, 1889.

DEAR SIR.— In response to your request under date of sixteenth instant, for further information regarding the accident on the Manhattan Beach crossing, May thirtieth, I would state that there was an interlocking switch and signal apparatus at the crossing, and both trains did come to a full stop before the accident. Afterwards, train 363 was pulled ahead and its engine cut loose and switched on the west-bound track, in order to let the cars pass it and then be connected with it at the other end. As soon as the cars had passed the engine they should have been stopped by the car brakes, but for some reason the latter would not hold, hence the collision. Train 363 was an unusually heavy one, and it was down grade to the crossing. These facts probably account for the failure to control the train. All the trainmen seemed to have performed their duty on the occasion, and the company could not properly administer discipline. Since the accident,

"throw-off" points have been put in, and we believe that they will serve to prevent a repetition of the occurrence.

It is proper to state that the railroad lines crossing at this point are both under the control of this company.

Yours very truly,

J. R. MAXWELL,
Vice-President.

June 21, 1889 — P. Hammann, while attempting to cross the track, immediately in front of the engine of train No. 62, at Farmers' avenue, was struck and killed. Inquiry shows that there is a flagman at Farmers' avenue crossing, but he was not on duty when this accident happened, it being after 7 p. m. The view is unobstructed, and the whistle was blown for the crossing.

July 6, 1889 — At the crossing, about 200 feet east of Kingston avenue, Florence A. Wandlass, a small child, was killed while crossing the track. Inquiry shows that there was a gateman at crossing; the child got through one of the openings that were left in the fence, by order of the common council, to let people go over the tracks between the regular crossings.

MANHATTAN ELEVATED.

November 8, 1888 — At the Canal street station Philip Baer, while attempting to board a moving train, fell to the street and was killed. In response to inquiries the following letter was received:

NEW YORK, November 19, 1888.

Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—As a north-bound Second avenue train was moving out of Canal street station, Mr. Phil. Baer, residing at No. 313 East One Hundred and Twenty-first street, and employed as salesman by Messrs. Rosendorff & Co., No. 47 Walker street, rushed into the station and pushed a woman away from the ticket window, purchased a ticket, dashed around through the exit passage, deposited his ticket and ran after the train. He caught the forward gate of third car, No. 251, in charge of guard John H. Grabau, and reached over to unlatch the gate, but was prevented by the guard, who warned him away and removed his hand from the latch. Baer, however, who had not stepped on to the car platform, continued to run along the station platform until he stumbled and fell. The guard immediately pulled the bell and stopped the train, but several passengers, in the excitement of the moment, jumped up and immediately pulled the bell rope again, thereby giving the starting signal, and the train moved away before the prostrate man could disengage himself from between the station platform and the side of the coach. Thus he was carried over the end and into the street, where he struck upon his head and died almost instantly, the train in the meantime having been stopped a second time by the guard and finally started by the conductor to avoid the following train. All this occurred within an extremely short space of time, and but for the interference of the passengers the disaster would have been averted by the prompt action of the guard in stopping the train as aforesaid.

The evidence in the case, copies of which are herewith submitted, places the responsibility on the unfortunate passenger, who so recklessly transgressed every law of safety, the verdict of the coroner's jury, on Friday last, confirming this conclusion and exonerating the guard.

Respectfully yours,

(Signed,)

F. K. HAIN,
General Manager.

January 24, 1889—A collision occurred at One Hundred and Fourth street and Sixth avenue, the circumstances of which are fully explained in the following letter:

NEW YORK, February 6, 1889.

To the Board of Railroad Commissioners, State of New York, Albany, N. Y.:

GENTLEMEN.—I have to report, that on January 24, 1889, at 7.27 A. M., while a Sixth avenue line south-bound train, drawn by engine No. 172, Engineer Rhoades, Conductor Spearing, was standing at One Hundred and Fourth street station, the following Sixth avenue line train, drawn by engine No. 251, Engineer Crawford, Conductor Phillips, collided with the rear end of it. Immediately thereafter a following Ninth Avenue line train, drawn by engine No. 44, Engineer Springsteen, Conductor Bradley, collided with the rear end of the second train, slightly damaging the engines and the platforms, doors and end windows of several of the coaches. South-bound traffic was delayed twenty-seven minutes, during which time the disabled trains moved into the middle track at One Hundred and Fourth street. The immediate cause for the collision was a dense fog, which suddenly rolled up, about ten minutes prior to the collision, and extended from about Ninety-third to One Hundred and Twenty-fifth streets. Immediately upon the appearance of the fog, our trackmen, who also act as fogmen, started for their respective posts, but so sudden was the appearance of the fog that they were unable to reach their several destinations before the accident occurred. The colliding trains were moving slowly because of the fog, and their near approach to the station, as verified by the light damages resulting from the collision. Personal injuries, as far as known, are as follows:

Miss Kate Connor, 202 Edgecomb avenue, a slight cut on chin.

Miss Hendley, 104 West One Hundred and Third street, claims to be injured internally.

Mrs. J. Flynn, 116 West One Hundredth street, a slight bruise about the eye.

F. W. Landes, guard, Sixth avenue line, hand and head cut.

The accompanying copies of testimony, and a sketch of the situation, set forth the occurrence in detail, and, in view of the circumstances, action against the employees concerned has been withheld.

Respectfully yours,

F. K. HAIN,
General Manager.

NEWBURGH, DUTCHESS AND CONNECTICUT.

May 18, 1889—Charles Dobbins, brakeman, while climbing up side of car at Matteawan, was struck and slightly injured by a switch target. Inquiry shows that the company has ordered a longer connecting rod applied to target, in order to prevent another accident of this kind.

NEW YORK CENTRAL AND HUDSON RIVER.

October 8, 1888—At Exchange street, Buffalo, Thomas McCarthy was struck and injured while attempting to cross track in front of train No. 5. Inquiry shows that the Exchange street crossing is protected by a flagman, but the accident referred to occurred at the station; not on the crossing as reported.

November 7, 1888—John Cardy, while crossing track one-half mile west of Fishers, was struck and killed. In reply the company said that from the side the team approached, there is a hill which cuts off the view of an approaching train for some distance, while back of that point the view is entirely unobstructed. The crossing was not protected.

November 8, 1888 — Train No. 23 while laying at Fishkill station was run into by a freight train that had followed No. 23 from brick-yard, Dutchess Junction switch. The conductor of No. 23 saw the freight coming, and signaled his engineer ahead, and the train had moved several car lengths before it was struck. The damage to car was very slight. Mrs. Edward Shivel was killed by jumping from train, and Miss Julia Lawler, Miss Minnie Shangran, Mrs. E. Gray and E. P. Roberts, passengers, were all injured in the same manner. The Board sent a letter of inquiry which read as follows:

November 26, 1888.

J. M. TOUCEY, Esq., *General Superintendent New York Central and Hudson River Railroad:*

SIR.—In regard to the rear collision which took place at Fishkill Landing November the eighth, preceding which Mrs. Edward Shivel was killed by jumping from a passenger train, the Board desires information on the following subjects:

First. Was it not the duty of Charles Ott, the switchman at Fishkill, to have set the signal to protect the rear of passenger train 23?

This man testified before the coroner's jury that he did not know whose duty it was to attend to the signal when there is a train waiting on the track for a few minutes. It appears that this man was assisting in loading baggage at the time of the accident by order of the station agent, Underhill.

The agent, Underhill, testifies that the printed rules are that the signal shall be dropped behind all trains stopping at the station, and that every train shall be thus protected.

The coroner's jury finds that the signals at this station have commonly been neglected. Have you been cognizant of this fact?

Secondly. The Board desires also to know what measures are taken to protect passengers leaving a train at a station at about the time that through trains in the opposite direction, which do not stop, may be passing such station?

By the Board.

WILLIAM C. HUDSON,
Secretary.

On November 28, 1888, the following letter was received in reply:

NEW YORK, November 28, 1888.

Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Replying to your communication of the twenty-sixth inst., from my investigation of the affair at Fishkill I learn that the agent, Underhill, called Ott away from his post to assist in loading a lot of theater baggage and scenery, which was booked for that train, the object being merely to avoid detaining the passenger train any material length of time over its regular stop. The rules, however, require the station agent to know that a train standing at his station is protected by a danger signal in the rear. See rules 159 and 160; see also rule 191.

I have not been aware that the signal at Fishkill for the protection of trains has been neglected.

As to your second inquiry, I will refer you to rule 162.

The primary cause of this accident at Fishkill lies with the engineer and conductor of the freight train following. The rule distinctly says that a train must not follow a passenger train until five minutes after the departure of such passenger train, etc.

I learn that this train immediately called for the switch, and it was out on the main track before the passenger train had left Dutchess Junction station, at which place it stopped.

The passenger train at Fishkill was there only three minutes before starting up; and the collision occurred some 300 feet beyond the stopping

point of train No. 23, as it was under headway, moving away from the station, when struck.

The station agent, however, made a mistake in calling his signal man away from his duty to perform other work.

Referring to what the coroner's jury finds, "that this signal had commonly been neglected," I will state that I have traveled over the line on a special engine often, and whenever the tracks have been obstructed at Fishkill, I have found the signal there at danger; have been stopped by it a number of times, which leads me to think that the jury's finding in that particular is not correct.

Respectfully yours,

JOHN M. TOUCEY.

November 26, 1888 — While walking on the track with a police officer, at Eighty-ninth street and Eleventh avenue, Frank Baker was struck and killed. The Board wrote asking whether the man was attempting to get away from the officer, or whether he was an employee of the road? The company in answer said that Baker was neither under arrest, nor was he an employee of road; he was merely walking on track with policeman and had no business there.

November 26, 1888 — As No. 5 was approaching Brighton prepared to stop, engine 580, with freight cars attached, ran into No. 5 at first crossing east of Brighton station, knocking off end of baggage car and injuring the baggageman on train 5 and the fireman of engine 580. The collision was due to the engineer of No. 580 leaving Brighton before No. 5 had arrived. The company, in response to inquiries, said: That engine No. 580, with freight cars attached loaded with stoves and a gang of men, was ordered down the Auburn road for the purpose of putting up the stoves in the stations. It was a "wild" train, being obliged to lay off for and keep out of the way of all regular trains. The engineer forgot that No. 5 was due at Brighton and passed just before No. 5 was due; a collision was the result. The engineer sent a letter to the master mechanic acknowledging that he was in fault, and voluntarily left the service of the company after writing the following letter:

I do not consider anyone to blame but myself, and I am prepared to take the consequences for my unfortunate oversight. When I think of how I have been over every piece of track on the western division that I did not know and got through all right, and then at last get caught on a road that I have known ever since I have known anything, nearly drives me crazy. But it is all up now, and, as this will be my last letter to you, I say good-bye.

I remain, respectfully,

(Signed.)

C. W. BEUCH.

The Board then wrote asking if engine 580 had passed Brighton junction when the collision occurred, and saying that it was impossible to understand how engine 580 could have collided with No. 5, east of Brighton junction on the main line, if engine 580 was intended to go on the Auburn road; and also asking how the signals were set at Brighton at the time of accident? In reply to the above the company says, I forgot to mention that train No. 5, alluded to, was upon the Auburn road, which has only a single track, as you will see by the report. At the time of the accident, engine 580 was going down the Auburn road, while train No. 5 was coming up the same road.

November 30, 1888 — The body of Antonio Giglaitti was found dead on track at Utica. In notifying the Board of the fact, the company stated that it was supposed that the man had met with foul play, and placed upon their tracks for a purpose. The matter was referred to Commissioner Rickard, who made the following report:

ALBANY, January 22, 1889.

About 5 A. M., November 30, 1888, Antonio Giglaitti was found dead between tracks No. 2 and 3 of New York Central and Hudson River railroad, near the east end of Utica freight yard. When found, the body was lying straight, face under and head towards the east with left arm underneath. An examination of testimony, taken before a coroner, elicits these facts: First, that the deceased, between the hours of 10 and 11 P. M., November twenty-ninth, had drank five glasses of beer; that when parting with a companion about 11 o'clock, he said he was going to gather coal; Second, that the *post mortem* finds the following wounds on body: A scalp wound on left side of head, about one inch long; an external bruise above left hip, this hip broken; also three ribs on same side.

Tracks 2 and 3 are the west-bound tracks of the New York Central and Hudson River railroad, the former for passenger and the latter for freight trains. At the point where body was found all freight trains run slow, and passenger trains make their schedule speed. The location of wounds on the body would indicate the deceased was struck by a west-bound train on track No. 2; that the end of pilot beam of locomotive is about the height to strike a man when walking near the rail, in the place where fractures were found on the body, and that such a glancing blow would have a tendency to throw the body in the position it was found.

The verdict of coroner's jury was "that deceased came to his death by being struck by a train on New York Central and Hudson River railroad, between the hours of 11 P. M., November 29, and 7 A. M., November 30, 1889," in which I concur.

December 14, 1888 — James Killduff, passenger, was injured at Bronxville, while alighting from train 74 on to a north-bound track; he was struck by engine of work train. The Board wrote asking why a work train was permitted to pass when train 74 was discharging passengers, and why was the signal not set to prevent this accident. In response the company states that on the Harlem road trains run left-handed which in this case brought the south-bound train next to the station, and the work train did not run between the train and the station. He alighted from the train on to the north-bound track, and not on the station side. As it was, the work train engineer brought his train almost to a standstill before hitting the man, who stood still, notwithstanding the continuous blowing of the whistle and the ringing of bell. The company thinks that due precaution was exercised by the employees, and that the accident was entirely due to the carelessness of Mr. Killduff himself.

January 9, 1889 — About one mile south of Iron Works, Troy, William Miller and John Ague, employees on train No. 29, were injured in a derailment which was caused by a landslide. The case was referred to Mr. Charles F. Stowell, who made the following report:

To the Honorable Board of Railroad Commissioners, State of New York:

GENTLEMEN.—In accordance with your instructions, I have visited the locality of the landslide on the New York Central and Hudson River railroad, on the ninth instant, and have the honor to submit the following report:

The point where the accident occurred is about midway between Bath and Iron Works stations, or about one and one-half miles from each sta-

tion. The railroad between these stations follows the curves of river bank. The bank rises from the water to a height of eighty or more feet, and the railroad lies near the water's edge. The slope of the river bank is not as steep as the sides of an ordinary railroad cutting, and the surface is covered with grass and straggling brush. The point where the slide occurred is at the beginning of a short curve of two or three degrees curvature, which is approached from the south by a tangent about a quarter of a mile long. The location of the slide is visible for this distance. The slide itself consisted of a portion of the face of the bank about twenty-five feet wide, which commenced to slip at a point about forty feet above the level of the rails, and slid down, covering the north-bound track to a depth of four or five feet at the deepest point. The material composing the bank is clay, with a thin covering of loam. It is reported that the engineer of the train saw the earth moving when within a short distance of it, and endeavored, without success, to stop his train, and that the train ran into and was thrown from the track by the moving slide. This attempt to stop the train was made about two hundred feet from the slide, as is shown by the sanded track for that distance back.

I could find no reason why the slide should have occurred at the point it did rather than at any other point along the road. The bank here is no steeper than at other points, nor does it present any other peculiarity. But I saw evidence that at least half a dozen other slides had occurred about the same time between this one and Iron Works station, but none of them were sufficiently large to cover the track, except one close by Iron Works station, where the track for a very short distance passes through a clay cutting and the banks are unusually steep. This slide, however, was not large enough to impede travel seriously. The slide which caused the accident was simply larger than any of the others.

The primary cause of the slide was undoubtedly the unusual condition of the weather. It had rained hard for twelve or fifteen hours, and the ground, being free from frost, became thoroughly water-soaked from this and previous recent storms.

All of which is respectfully submitted.

CHARLES F. STOWELL.

On January 17, 1889, the Board received a letter from J. M. Toucey, general superintendent of the New York Central and Hudson River railroad, which read as follows:

NEW YORK, January 17, 1889.

Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—I have yours of the fifteenth inst., together with report of slide on Troy road made by Mr. Stowell.

Some twenty or twenty-five years ago we were troubled a great deal with slides on the Troy road, and piles were driven along at the foot of the bank, but they have rotted away and broken, and in fact did not answer the purpose.

We have two plans in contemplation in regard to these banks; the first is, to take off the surface, and cover with cinders for a depth of two feet, thus keeping the frost out. The next is, to lay drain tile about as deep as the frost would go, which would take the water off, and would, as we think, prevent slides.

Something of this sort is in contemplation for the coming season.

Respectfully yours,

J. M. TOUCEY.

March 24, 1889—At East Buffalo, John Ryan was injured in a collision. Inquiry developed the fact that the collision occurred through Ryan's own carelessness; he was stationed on cars which were being run in upon siding, and he allowed them to collide with another car on siding instead of stopping them in the proper place.

March 24, 1889—In going from the station, at Atkin, William H. Patterson, was struck and killed; he was in the act of placing a letter on train No. 39 when struck by freight. Inquiry shows that James

L. Allen, the engineer of freight train, says he understands the rule perfectly; but on the day of the accident he was within fifty car lengths of the station when he saw train No. 39 coming around the curve. He shut off at once, but he saw the engineer of train No. 39 shut off also, with the intention, as he supposed, of allowing him a chance to pull through the station ahead of the passenger train.

April 16, 1889 — Fritz Lorts, while attempting to cross the tracks at Cedar street crossing, Batavia, was struck by the engine of train 34 and killed. The company in reply to a communication from the Board said that the crossing was not protected by either a gate or flagman, but the view was entirely unobstructed.

May 13, 1889 — At one-half mile west of Amsterdam, William Hills, while walking over the tracks was struck by train No. 14 and fatally injured. The Board upon inquiry learned that Hills was not upon a highway crossing; he was walking on track.

June 13, 1889 — August Sheraske was injured on the Fulton street crossing, Buffalo, N. Y., while crossing over the tracks. Inquiry shows that crossing was unprotected at time of accident.

June 14, 1889 — A brakeman standing on top of car, of an extra south-bound freight, was struck and injured by an overhead bridge at Greenbush, N. Y. In answer to a communication from the Board, asking whether the bridge had warning signals in accordance with statute, the company said that the bridge was not protected by a guard for the reason that it was supposed to be of sufficient height to clear any person standing on top of a car.

August 17, 1889 — James A. Footman, an employee, while on top of an extra freight train, struck an overhead bridge, at Newark, N. Y., and was slightly injured. In answer to a communication from the Board, the superintendent of road said that the man was struck by the guard and not by bridge. The guard was one known as the "Hayward" being made as a wooden finger and operated by a spring. The Board then wrote, saying that it did not consider the Hayward guard a safe one, and asked if road intended to continue to use it. To which the superintendent replied, that they intended to discard the Hayward guard entirely substituting as rapidly as possible the rope guard.

August 28, 1889 — At the Chicago street engine-house, Buffalo, N. Y., a Nickle Plate engine collided with Lake Shore train, and both engineer and fireman jumped. The shock sent Nickle Plate throttle wide open and engine started back and ran into New York Central engine No. 140, seriously injuring Engineer Albert Nichols, and Fireman James Manning. The Board wrote, asking for the circumstances of this accident in greater detail; also, who in opinion of road was responsible, and what, if any, discipline had been administered. In reply, the following letter was received:

NEW YORK, October 7, 1889.

Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN. — In reply to your favor of October fourth in regard to the Buffalo collision on August twenty-eighth, the facts of the case are these: A Nickel Plate switching engine (the Nickel Plate railroad being a tenant of the Lake Shore railroad which has a right to come into our Exchange street depot, Buffalo) came up with an express car to leave at Exchange street. After the car was left, the engine started to return. On its return it met a Lake Shore train upon the Lake Shore tracks. In the meantime,

after the Nickel Plate engine had passed east, the switch that leads into our Chicago street engine-house was turned for the purpose of letting a New York Central engine out. Before this engine came out, however, the Nickel Plate engine, as I remarked, came in collision with a Lake Shore train, when the engineer of the said engine reversed his engine, and jumped. The result was, as soon as the collision occurred, the Nickel Plate engine took a backward motion, and ran without anyone on it, took the switch that was turned to let our engine out of the Chicago street engine-house, collided with our engine on the turn-table when it was just ready to leave it, demolished the turn-table, badly damaged the engine and injured the men on our engine as follows: Albert Nichols, engineer, left leg broken in three places, and bruised badly; James Manning, fireman, scalp wound and bruised.

I consider the Lake Shore entirely responsible for this accident. The collision, in the first place, occurred upon their tracks, and under their own supervision; the Nickel Plate engine being upon that track by their permission.

Respectfully yours,

J. M. TOUCHEY.

NEW YORK, LAKE ERIE AND WESTERN.

October 25, 1888 — P. McGuinness attempted to cross the track ahead of engine No. 35, at Chester, and was seriously injured. Inquiry developed the fact that the man was a trespasser on track, and picking up coal at time of accident.

October 29, 1888 — As Louis Marguart was attempting to drive over the tracks at Lancaster, he was struck and killed by engine 241. In reply to inquiries made by the Board, the company says that in their opinion a flagman is unnecessary at this crossing, as it is in a thinly-settled region; is but little used, and the view is not obstructed sufficiently to introduce an element of danger to persons using it. At a point 100 feet from the track, a person approaching the tracks has a clear view either way, of one-half mile. The case has been fully investigated by a coroner's jury, and the company was exonerated from all blame.

May 8, 1889 — Ten cars of train No. 137 were derailed at Pine Valley. J. McLean a brakeman on the train was instantly killed. In reply to an inquiry, Superintendent Murphy said that after a careful and thorough investigation of the accident they were unable to find out the exact cause. The only theory they have to advance is that Brakeman McLean, while climbing from an oil tank to a box car, fell between the cars and on the rails, and that the cars in passing over his body, were thrown from the track.

June 16, 1889 — At Greycourt, Dennis Kane and Luke Stead were struck and killed by engine No. 46, while attempting to cross tracks at the highway. Inquiry elicited the fact that the crossing was not protected by either a gate or flagman, but the view was entirely unobstructed.

August 21, 1889 — A serious collision occurred, one and a half miles west of Big Flats. The following letter and statement was received, in answer to the Board's letter of inquiry:

JERSEY CITY, N. J., October 9, 1889.

DEAR SIR.—Your communication of the eighth instant just received, asking for reply to yours of the third instant, which was not received until the night of the seventh, in reference to the accident which occurred at Big Flats, on or about August twenty-first.

In compliance therewith, I attach hereto a full report of this accident.

Yours truly,

W. J. MURPHY,
General Superintendent.

Accident one and one-half miles west of Big Flats, August 21, 1889.

At 12.10 A. M., on August 21, 1889, train 2, New York express, ran into rear end of train 100, freight train, wrecking and setting fire to caboose and four cars, loaded with staves and salt, in train 100, and injuring employees and passengers as follows:

Passengers.

B. Davis, New York city, age unknown, slight bruises; J. Lakeland, Redford, England, a slight injury to spine; Mrs. Lakeland, back hurt slightly; S. S. Keohn, Lancaster, N. Y., head slightly cut; William Leiplander, Cleveland, O., left knee bruised.

Employees.

A. J. Wallace, engineer, age 48, received injuries from which he died the same day; O. Kimball, fireman, age 32, residing at Hornellsville, fracture of right forearm and badly scalded; Park D. Colvin, a drover, age 20, residing at Woodhull, N. Y., who was in the caboose of train 100, left knee severely cut, also bruised and scratched about body.

Train 100 was stopped at above point by the train ahead; when first flagged—one and one-fourth miles from where accident occurred—one flagman was left, then for additional precaution a second flagman was left three-fourth miles from where the accident occurred; this precaution was taken as the night was very foggy. The first flagman failed to flag train 2, for which he has been dismissed from the service; the second flagman signaled train 2, but saw no one in the cab window and did not hear the torpedo, which he had placed upon the track, explode; he has also been dismissed from the service; the conductor of train 100 was also dismissed.

The Board then wrote to President John King, calling his attention to frequency of collisions on the New York, Lake Erie and Western road.

October 15, 1889.

JOHN KING, Esq., President, New York, Lake Erie and Western Railroad Company:

SIR.—This Board desires to call your special attention to the frequency of collisions on the New York, Lake Erie and Western railroad.

On August 20, 1889, a Lehigh Valley train in backing over to westward track was run into by Erie extra 201, derailing nine cars and blocking both tracks. Engineer Tiffany was injured.

On August 21, 1889, at same point at 12.10 A. M., train 2, New York express ran into rear end of train 100, freight train, wrecking and setting fire to caboose and four cars, and injuring five passengers and two employees and killing one employee.

On August twenty-third, 12.15 P. M., near Alden, Lehigh Valley train extra 210, east, ran into Lehigh Valley pusher engine 280. The fireman on pusher 280 received injuries from which he died the same day.

September second, 4.25 A. M., one and a quarter miles west of Addison, second section of 83 ran into rear end of extra train, killing Conductor Dailey who was in the caboose.

September eighth, trains 81 and 88 collided one and one-half miles east of Cuba, 3.47 A. M., killing Brakeman Phillip H. Gray and severely injuring Fireman O. E. Howard.

This record of accidents on any one road within nineteen days is unprecedented in the experience of the Board.

In some cases it is reported that the authorities of the railroad find brakemen or engineers, as the case may be, to blame, and dismiss them; in other cases, as in that of August the twentieth, the comment is that "the question of responsibility between the company and the Lehigh Valley Company has not yet been settled."

It would appear to the Board that such frequency of accidents can alone be the result of deficient discipline. Your attention is, therefore, drawn to this matter, and the Board requests that you will communicate to it what, if any, action you propose to take to diminish the frequency of these accidents hereafter.

It may be proper to say that the accidents of August twentieth and twenty-first were not reported to this Board until the ninth day of October; that of the twenty-third, until the second of October; that of September the second, until the eleventh of October; and that of the eighth of September, until the tenth of October. Had these been reported immediately after their occurrence, as required by law, it would have enabled the Board to have investigated them with much more benefit to all parties concerned than was possible after receiving the reports at so late a day.

Upon the attention of Mr. W. J. Murphy, general superintendent, being called to this, he expressed regret, and explained it by a change of superintendents on the western division, etc.

The Board regards the frequency of these accidents as a matter of such grave importance, however, that, as before stated, it draws your especial attention to the subject, with the request for a reply and explanation, if possible.

By the Board.

WILLIAM C. HUDSON,
Secretary.

On October 23, 1889, this letter was received in reply to the above:

NEW YORK, October 23, 1889.

To the Honorable the Board of Railroad Commissioners of the State of New York, Albany, N. Y.:

DEAR SIRS.—Your valued favor of the fifteenth inst. reached me in due course of mail, and it has had my careful consideration.

Your Board can not deplore more than we do the unfortunate series of accidents referred to. The explanation of them, I think, lies in the fact that the tracks of the Susquehanna division, on which you will note they all, with one exception, occurred, are used by no less than three different railroad companies, and that in the month of August the traffic on this division was the heaviest ever known in the history of this company. You will observe that two of the accidents referred to belong to the Lehigh Valley Railroad Company, which is one of the companies using our tracks, and their large traffic naturally added to the difficulties of conducting transportation upon that portion of our road. The few reports that you have received of accidents on other parts of our line, will indicate to you that there were some special and unusual circumstances connected with these occurrences upon the Susquehanna division.

The results of our investigation have shown that none of these accidents were due to any defect in the regulations or discipline of this company. We should most willingly join with your Board in effectuating any suggestions that can be accomplished with the means at our command to improve the efficiency of our service in this respect, but it seems to us the difficulty lies in the frailty of human nature. During the last five years the number of train accidents on our road has very rapidly decreased, and we hope, as we continue to increase our facilities, that even better results may be produced.

I am obliged by your suggestion about the delay which occurred in forwarding reports of these accidents to your Board. This matter has received the necessary attention, and I trust in the future that you will find no cause of complaint on that score.

I am, my dear sirs, very truly yours,

JOHN KING,
President.

On October 30, 1889, the Board further investigated the Big Flats accident by sending a communication to the president, which reads as follows:

October 30, 1889.

JOHN KING, Esq., *President New York, Lake Erie and Western Railroad Company, New York city:*

SIR.—The Board has received a communication, dated the ninth of October, from W. J. Murphy, general superintendent, giving certain details of the accident on August 21, 1889, at Big Flats. Will you kindly see that it is provided, however, with certain further information in regard thereto.

The circumstances of the accident as developed by an inspection on the premises by the inspector of the Board, are reported as follows:

About 10.30 p. m. a Lehigh Valley freight going east, wishing to get out of the way of No. 12, Erie passenger, going in the same direction, and finding the sidings full of cars, sent a flagman ahead on the west-bound track to hold west-bound train, and then backed over the cross-over on to the west-bound main track. A freight of the Erie company, west-bound, came along and ran into the Lehigh Valley freight, when partly across, striking the Lehigh train on the side, wrecking some cars and blocking both tracks.

The flagman of the Lehigh train claimed he could not get the attention of the Erie engineer to his red light, and as the engine went past threw his lamp against it. Particles of the glass of his lamp were found sufficiently away from the point of collision to warrant the statement that the Erie freight could have been stopped if the engineer had been on guard, or, as supposed by some, not been asleep. It was stated to the inspector that this same man had been laid off before for being found asleep when moving his train.

A Lehigh Valley trainman went west along the east-bound track and flagged the passenger train No. 12, which drew up when near the wreck, and in turn sent its flagman out. Four freight trains followed, each in their turn sending back flagmen. Train No. 4 sent back two flagmen, Williamson and Hicks.

It had now reached 4 a. m. The flagmen of four claimed they stayed back forty minutes. It is then understood they returned to their train, in accordance with a custom generally in vogue on the road that after guarding the rear of a train this length of time they may return unless ordered to stay still longer. Subsequent to their return No. 2, a fast express train, ran into the rear of the freight train killing Wallace, the engineer.

The Board desires to know:

First. What was the name of the engineer of the west-bound freight train which originally ran into the Lehigh freight; also, what was his explanation for not stopping? Is there any foundation in the report that he was asleep at the time of the accident?

Second. Why did the train dispatcher permit the trains, and especially fast passenger No. 2, to pass Corning, knowing that there was a wreck upon the track?

Third. In view of the fact that numerous trains pass each other at this point, and, of the further fact that on August twentieth there had been an accident of the same kind, in consequence of a Lehigh Valley train back-

ing over to the west-bound track for train No. 12 to pass, why would it not be a desirable, if not a necessary thing to construct another siding at this point, so as to preclude the necessity of an east-bound train backing to the west-bound track or *vice versa*.

By the Board.

WILLIAM C. HUDSON,
Secretary.

- In answer to the above inquiry the following letter was received:

NEW YORK, November 8, 1889.

DEAR SIR.—I now beg to make the following answer to the questions put by the Board in their letter of the thirtieth ultimo:

The name of the engineer of the Erie train that ran into the Lehigh Valley train just west of Big Flats on the night of August twentieth, is William H. Tiffany. This man entered the service of this company as fireman March 4, 1879. He served as freight and passenger fireman until July 7, 1887, when, having passed examination for promotion to the position of engineer, he was given a freight engine, which he continued to run until the day of the accident. We have no record of his ever having been suspended from any cause, and there is no foundation whatever for the report that he was asleep at the time of the accident in question. On that run he was on the lookout for signals ahead, as was also the fireman, as they knew that they had been following a freight train closely all night. Neither of them saw any signals up to the time they were at least one mile from the cross-over, until within a very few car lengths of where the accident occurred.

Our investigation satisfies us that Flagman Sayre, of the Lehigh Valley train, in starting out to flag Erie extra 201, fell down, and in so doing put out his light, and to screen himself he made the statement that he threw the red light at the engine. When questioned as to the position in which he stood when signaling the train, he stated that he was holding his white light up in his right hand and swinging the red light with his left, until the engine struck him. He had previously stated that he threw the red light with his righthand, and when asked how he could throw the red light with his right hand when he was holding his white light in that hand, he replied that just before the engine struck him he changed the lamps. He also stated that he did not have any torpedoes, not having been furnished with any. Conductor Higgins, of the Lehigh Valley train, also admitted that he had no torpedoes. The flagman stated that he was a new man, and this was the second time he ever flagged a train ahead. The rules of this company require flagmen to be provided with torpedoes. After daylight, on the morning of the accident, Conductor Becker, of the Erie train, and his flagman, searched the track carefully and repeatedly for a red lamp or broken red glass, but could find nothing to indicate that the Lehigh Valley flagman had had a red light at all. A careful examination of the engine was also made, but no evidence of its having been struck with a lamp could be found. There is no custom in vogue on this road whereby flagmen are allowed to return to their trains after having remained out forty minutes, or any other definite period. On the contrary, our rules are imperative that a flagman must remain out until he is called in or has flagged a following train, and we can find no evidence that any other custom was observed at the time of this accident.

In reply to your second question, I would state that passenger train No. 2 could not be held at Corning on account of the wires not working. When Erie extra 201 ran into the Lehigh Valley train the wires were knocked down and for some time they could not be worked between Big Flats and Susquehanna.

With reference to the other point on which the Board desires information, I would say that while it might be desirable to have another side track at Big Flats we can not economically locate one on account of the embankment at that point. An appropriation was made some time ago for additional siding facilities on the Susquehanna division and a consid-

erable sum has been already expended for that purpose. Everything is being done on our part to provide for the extraordinary traffic thrown on that line in the last few months.

Trusting that this explanation will be satisfactory to the Board, I am,

Yours very respectfully,

JOHN KING,
President.

August 23, 1889 — When near Alden, a Lehigh Valley train, extra, No. 270, east, ran into Lehigh Valley pusher-engine No. 280; D. Hayes, the fireman on pusher-engine No. 280, received injuries from which he died the same day at 1 p. m. The accident was caused by the engineer, on engine No. 270, H. Bogart, being asleep, for which he has been dismissed. In response to an inquiry made by the Board, the company said that the reason the accident had not been reported more promptly was owing to the fact that the Lehigh Valley people were delayed in sending them the required information. Engineer Bogart had been on duty about fifteen hours at the time of accident.

NEW YORK AND NEW ENGLAND.

April 2, 1889 — Section Foreman Kelcsin, and three Italian laborers were injured in a collision between second No. 61 and work train, at a point two miles east of West Pawling. The Board wrote to the company, asking if work train was protected by flagman at proper distance, and who they considered at fault; also what discipline has been administered. In answer the company said, investigation shows that the flagman of the work train was out at a proper distance, and that evidence shows that the engineer of freight train was wholly to blame; he was suspended, and the company stated that unless new facts were developed favorable to him, he would be dismissed from further service.

NEW YORK, NEW HAVEN AND HARTFORD.

October 9, 1888 — Passenger train No. 50 ran over and killed Mrs. Theodore Rodrian at, or just east of, Mamaroneck station. Inquiry shows that the woman was killed while walking on track, at a point where the view was entirely unobstructed.

March 1, 1889 — Jerry Quigley, in attempting to drive over the tracks at "West Farm," was struck and injured by train No. 159. The company, in reply to inquiries made by the Board, stated that the crossing was unprotected, but the view was clear in both directions.

NEW YORK, ONTARIO AND WESTERN.

October 11, 1888 — Engine of train No. 2 struck and fatally injured Samuel C. Jenkins as he was crossing the track near Liberty. Inquiry shows that the crossing was only protected by the usual crossing signal, while the view was unobstructed in the direction of the train.

September 5, 1889 — New York, Ontario and Western train No. 29 left Weehawken September fifth at 2.32 a. m., and had clear or white block at New Durham, and when few rods south of Granton, struck a West Shore freight engine, No. 32, on cross-over; it was crossing over

without signals. Harry Mead, head trainman of No. 29, was on second car from engine when they struck, and setting brakes in order to help stop train. He was thrown from top of car, and quite badly injured. General manager, J. Burton's secretary, in answer to a letter from the Board asking who was at fault, said that he was out of town when collision occurred, but, from records in his office, he was able to state that no blame was attached to their company, and referred the Board to the West Shore Company, who have assumed responsibility for damage. The Board then, on October fourth, wrote to J. D. Layng, general manager of West Shore railroad, asking for circumstances of accident. In reply the company said, with regard to the accident at Granton, the Ontario and Western train was on the north-bound track going out the road. The West Shore train, south-bound, reached Granton, stopped and turned the cross-over switches to get over into the yard east of the main track. When about starting ahead they were struck by the Ontario and Western train. There was some fog at the time, but our investigation showed the crew of the West Shore train to be entirely at fault in not getting their flag out far enough before crossing over, and they have been discharged from the service.

NORTHERN CENTRAL.

August 13, 1889 — Frank Killkelly and S. J. Clark were injured in a collision at Starkey, N. Y. The circumstances of the accident are reported as follows: Extra engine No. 46 was switching cars on main track and failed to get cars on siding or to flag second No. 9 and the latter train ran into cars. Clark jumped from a box car in train to a coal car on siding and from there fell to the ground. Frank Killkelly was injured by jumping from engine. In reply to an inquiry as to who was responsible and what discipline, if any, had been administered, Superintendent Meade replies: Extra freight train south, engine No. 46, which was switching at north end of Starkey siding, had sent out a flagman, M. L. Pratt, who was supposed to be a competent man and had had considerable experience on our road. He went out the required distance, but states that he left the track for a moment and at that instant train No. 9 passed him. Brakeman Pratt was promptly discharged from service.

OGDENSBURGH AND LAKE CHAMPLAIN.

June 12, 1889 — Brakeman G. S. Wallace was found unconscious and badly injured on top freight train No. 6, at the bridge about one mile west of Chateaugay, N. Y. It was supposed that he had been struck by bridge. The company in response to inquiries said that the bridge at the time of accident was protected by warning signals, as required by law.

ROME, WATERTOWN AND OGDENSBURGH.

August 25, 1889 — Employee F. Fitzgerald, at a point near Hannibal, was sent back with flag to protect train and fell asleep on track. While asleep, he was struck by train No. 121 and had arm fractured and leg bruised. The Board wrote, asking what the circumstances were of trainman falling asleep; how many hours he had been on duty,

and if there was any reason to suppose he had been drinking. Manager E. S. Bowen, in answer, said: That man had been on duty about five hours at the time the accident occurred. Previous to this time, he had had twelve hours rest at Charlotte. There was no evidence to show that the man had been drinking.

September 3, 1889 — Mr. and Mrs. Orson Wood were injured near East Carlton, while crossing track. Inquiry developed the fact that the crossing was not protected by either a gate or a flagman, but the view was unobstructed.

STATEN ISLAND RAPID TRANSIT.

March 5, 1889 — At Hanchetts' crossing, Stapleton, N. Y., the engine of passenger train No. 153 struck and killed Michael Bohean as he was crossing the track. The company in response to a letter said that accident happened on a private crossing.

March 25, 1889 — Jerry Leonard, while crossing the track at West Brighton, was struck and injured by train No. 148. Inquiry elicited the fact that the crossing was a private one and not guarded; the crossing is a dangerous one and view somewhat obstructed.

WESTERN NEW YORK AND PENNSYLVANIA.

May 28, 1889 — As engine No. 10 was backing down from Buffalo shops, Henry Klees jumped from his wagon on to the track at the Hamburg street crossing directly in front of engine and was injured. In reply to inquiries, the company stated that they did not have and never did have a night flagman at the Hamburg crossing, as it was used very little by the public. The principal cause of the accident was on account of the view of the crossing being obstructed by Michigan Central cars which were standing on the New York Central and Hudson River railroad tracks.

August 5, 1889 — Three employees of passenger train No. 31, W. H. Godfrey, F. Bristol and H. Winters, were injured in a collision at Portage, N. Y. Accident was caused by a freight train running into them. R. Bell, general superintendent, in reply to a communication from the Board asking for circumstances in detail, who the company considered responsible, and what discipline had been administered, sent the following letter from his division superintendent.

OLEAN, N. Y., October 9, 1889.

MR. R. BELL, General Superintendent, Buffalo, N. Y.:

DEAR SIR. — Train No. 31 runs north — Portage to Rochester — and starts from the main track opposite Portage station. The train was being made up preparing to leave when accident occurred.

It is the rule on this division that this train has the right to the main track from the north end of siding to and opposite the passenger station for, before its leaving time, ten minutes, but not a minute afterwards without being protected by signal. Any other train following must not leave this station until after train 31 has been gone ten minutes. This does not give the right to train 31 to use any portion of the ten minutes, but to keep trains at least ten minutes apart. The conductor and engineer fully understand the instructions, having acknowledged the same to me. The siding at this point runs south of the station, and is on sharp curve. The morning of the accident they had an extra coach in their train that was not to go;

EAST BUFFALO, August 29, 1889.

W. BUCHANAN, *Superintendent, M. P. and E. S.:*

DEAR SIR.—Switching at East Buffalo the twenty-eighth inst., engine 517, at 6.20 P. M., when backing up with Rochester and Pittsburgh train from William street to Exchange street depot, Buffalo, made the stop at Western New York and Pennsylvania junction, and then started again. West Shore train No. 6 had made the target stop, and had started east. I was watching that no one was jumping off West Shore train in front of our engine, when on Seymour street crossing I discovered the cross-over switch just west of Swan street was wrong. I reversed the engine and whistled to the switchman who stood on Swan street crossing, but he made no effort to throw the switch. The fireman on my train tried to get to switch and throw it, but he could not reach it before the engine was on it. We struck the second last car in West Shore train, damaging the platform and ends, broke cab-seat brackets and demolished tank of engine 517. When we discovered the switch wrong we were running about six miles an hour.

The target that controls the switch was closed, showing a clear track. We were almost stopped when we struck.

Respectfully yours,

GEORGE O. BARON,

Engineer.

WILLIAM KINKADE,

Fireman.

JOHN GALLIVAN,

Switchman New York Central railway.

M. MANIT,

Switchman New York Central railway.

VOSBURG,

Trainman E. and P. railway.

September 23, 1889—Mrs. Gorham attempted to cross the track ahead of freight train, at Clyde station, and was killed. Inquiry developed the fact that the crossing was not properly protected.

APPLICATIONS

FOR

EXTENSION OF TIME FOR HEATING PASSENGER CARS OTHER THAN BY A STOVE OR FURNACE.

The Legislature of 1888, by chapter 189, amended chapter 616 Laws of 1887, entitled "An act to regulate the heating of steam passenger cars," etc., so that "in special cases the Board of Railroad Commissioners" might "extend the time for a period not exceeding one year from November 1st, 1888, for any steam railroad doing business in this State, to heat its passenger cars by any stove or furnace kept inside the car, or suspended therefrom."

Under this provision a number of applications for an extension of time were made in August and September of 1888, and the Board set down September 24th, 1888, as a date on which to hear all applicants. The action of the Board upon these applications will be found in the report for the year 1888, on pages 206 *et seq.* In no case was the time extended to a date later than January 1st, 1889.

But various causes arose to prevent all of the railroads from equipping their cars by first of January, and, as a consequence, further application was made to the Board for other extensions. Chief among these causes was the extraordinary demand upon the steam heating companies to equip the cars of the various roads within the State and apparently beyond their capacities.

The Long Island Railroad Company which, in its original application, had asked for an extension of time only to December 1st, 1888, was forced to ask for an extension to January 1st, 1889, then to February first, again to March first, and finally to April first, in which to complete the work of equipment, and during all this time the work was progressing without complete interruption. These various applications were granted. The road is now completely equipped.

The Lehigh Valley Railroad Company, having been granted an extension until the 1st of January, 1889, applied for a further extension of ten days, which was granted.

The Adirondack Railroad Company asked for a further extension of time from the 1st of January, 1889, to the fifteenth of January, the accidental breaking of two castings necessitating this.

The Grand Trunk railway, for the reasons given in its original application of September 6, 1888, and which are set forth in the determination of the Board, under date of October 23, 1888 (see page 212, Railroad Commissioners' Report for 1888), made further application for an extension of time until April 1st, 1889, which was granted by the Board.

The Rome, Watertown and Ogdensburgh Railroad Company having been granted an extension of time to January 1st, 1889, applied for a further extension until June 1, 1889, alleging a desire to experiment with some new devices. The Board, however, refused to extend the time further than February first, and at that time, having been informed that seventy-one per cent of its cars had been equipped, in answer to another application, extended the time further to the fifteenth of February.

The Fitchburg Railway Company having been granted an extension until January 1st, 1889, finding itself delayed in the work of equipment, asked and received an extension until February 1st, 1889, and subsequently until March 15th, 1889.

The Central Vermont railroad asked and received an extension of time from the 1st of January, 1889, until the 1st of February, 1889, and on the latter date informed the Board that the equipment was fully completed.

A large movement of troops, in connection with the inauguration of the Governor, on the 1st day of January, 1889, to and from Albany, necessitating the employment of cars by the New York Central and Wagner Palace Car Companies, laid up for the winter, and used only in summer, and therefore not equipped, these companies made a request for an extension of time covering a period between December 31st, 1888, and January 3d, 1889, which was granted.

A similar condition of affairs existed at the time of the Centennial celebration in New York city, and applications were received from the Rome, Watertown and Ogdensburgh, the New York, Ontario and Western and the New York Central and Hudson River Railroad Companies. The Board, urging upon the companies not to make fires unless absolute necessity existed, granted an extension from the 27th day of April to May 2d, 1889.

LENGTH OF STEAM RAILROADS

IN OPERATION SEPTEMBER 30, 1889.

(Small capitals indicate lessee; indentations indicate leased or operated lines.)

Name of Company.	Miles in N. Y. State.
Addison and Pennsylvania.....	10.51
Bath and Hammondsport.....	9.40
Boston and Albany	56.63
BRADFORD, ELDRED AND CUBA	3.71
Bradford, Richburgh and Cuba	3.62
Wellsville, Bolivar and Eldred	20.62
Brooklyn, Bath and West End	6.64
Brooklyn and Brighton Beach	7.50
Brooklyn and Rockaway Beach.....	3.50
Buffalo Creek	4.26
Buffalo Creek Transfer.....	1.10
BUFFALO, ROCHESTER AND PITTSBURGH	166.18
Lincoln Park and Charlotte.....	8.98
Perry	1.03
Carthage and Adirondack	43.21
CATEKILL MOUNTAIN	15.73
Cairo	3.77
CENTRAL NEW ENGLAND AND WESTERN	57.60
Hartford and Connecticut Western	42.85
CENTRAL VERMONT :	
Addison75
Ogdensburgh and Lake Champlain	118.00
Saratoga and St. Lawrence	7.59
CHATEAUGAY.....	18.01
Chateaugay Railway	38.89
Plattsburgh and Dannemora.....	15.92
Chautauqua Lake.....	24.22
CLOVE BRANCH	4.25
New York, Boston and Montreal (trustee)	4.01
COOPERSTOWN AND CHARLOTTE VALLEY	3.00
Cooperstown and Susquehanna Valley	19.25
Crown Point Iron Company's Railroad	12.84
DELAWARE AND HUDSON CANAL COMPANY :	
Adirondack	58.00
Albany and Susquehanna.....	142.59
Albany and Vermont.....	12.18
Cherry Valley, Sharon and Albany.....	21.04
Glens Falls	15.12

Name of Company.	Miles in N. Y. State.
DELAWARE AND HUDSON CANAL COMPANY — (Continued).	
Hudson River Pulp and Paper Company	2.50
Lackawanna and Susquehanna (owned)	17.65
New York and Canada	149.94
Rensselaer and Saratoga	106.49
Saratoga and Schenectady	21.56
Schenectady and Duanesburgh	13.79
Schenectady and Mechanicville	9.93
DELAWARE, LACKAWANNA AND WESTERN :	
Cayuga and Susquehanna Valley	34.41
Greene	8.10
New York, Lackawanna and Western	207.89
Oswego and Syracuse	34.98
Syracuse, Binghamton and New York	81.00
Utica, Chenango and Susquehanna Valley	97.41
Valley	11.64
ELMIRA, CORTLAND AND NORTHERN	118.70
Canastota and Northern	20.73
FALL BROOK COAL COMPANY :	
Corning, Cowanesque and Antrim	15.64
Penn Yan and New York	6.43
Syracuse, Geneva and Corning	57.75
FITCHBURG	114.97
Troy and Bennington	5.04
Fonda, Johnstown and Gloversville	26.17
GRAND TRUNK	1.21
International Bridge Company66
United States and Canada	22.40
Greenwich and Johnsonville	14.65
Herkimer, Newport and Poland	16.73
Ithaca, Auburn and Western	37.72
Kaaterskill	7.50
Lackawanna and South-western	41.11
Lake Champlain and Moriah	7.66
Lake Shore and Michigan Southern	71.00
Lehigh and Hudson River	14.50
LEHIGH VALLEY	12.00
Geneva, Ithaca and Sayre	113.55
Hayt's Corners, Ovid and Willard	3.83
Waverly and State Line40
Southern Central	114.00
LONG ISLAND	287.08
New York, Brooklyn and Manhattan Beach	20.14
New York and Rockaway	8.91
Stewart	16.27
Smithtown and Port Jefferson	18.97
Brooklyn and Jamaica	9.58
Marine	33.00
Middleburgh and Schoharie	5.75
Newburgh, Dutchess and Connecticut	58.84
NEW JERSEY AND NEW YORK	17.93
New Jersey and New York Extension	2.37

Name of Company.	Miles in N. Y. State.
New York Central and Fort Orange	60
NEW YORK CENTRAL AND HUDSON RIVER.....	731.87
Albany Branch	11.04
Athens Branch	6.16
Buffalo and Erie Basin	1.29
Fuller's Branch.....	5.07
Lake Mahopac.....	7.09
New York and Harlem	126.96
Niagara Bridge and Canandaigua	87.58
Port Morris	1.85
Spuyten Duyvil and Port Morris	6.04
Troy and Greenbush.....	6.00
West Shore	406.15
New York, Chicago and St. Louis.....	68.07
New York and Northern.....	55.91
NEW YORK, LAKE ERIE AND WESTERN.....	504.51
Avon, Genesee and Mount Morris	17.70
Buffalo, Bradford and Pittsburg	7.99
Buffalo, New York and Erie.....	139.93
Buffalo and South-western.....	66.36
Conesus Lake	1.63
Elmira and State Line	6.50
Erie and Genesee Valley.....	12.25
Goshen and Deckertown	11.65
Lockport and Buffalo	15.93
Middletown and Crawford	10.22
Montgomery and Erie	5.14
Newburgh and New York.....	12.59
New York, Pennsylvania and Ohio.....	49.24
Northern Railroad of New Jersey.....	5.81
Rochester and Genesee Valley	18.63
Suspension Bridge and Erie Junction.....	23.87
NEW YORK, NEW HAVEN AND HARTFORD.....	14.04
Harlem River and Port Chester	11.50
NEW YORK, ONTARIO AND WESTERN.....	320.17
Rome and Clinton	12.70
Utica, Clinton and Binghamton	31.30
New York and Massachusetts	34.90
New York and New England.....	30.72
New York and Rockaway Beach.....	10.75
New York, Rutland and Montreal.....	52.10
NEW YORK AND SEA BEACH.....	6.00
Sea Beach and Brighton.....	2.70
NEW YORK, SUSQUEHANNA AND WESTERN:	
Middletown, Unionville and Water Gap.....	13.90
NORTHERN ADIRONDACK	11.98
Northern Adirondack Extension.....	42.00
NORTHERN CENTRAL:	
Elmira and Lake Ontario.....	99.61
Elmira and Williamsport	6.50
Pennsylvania, Poughkeepsie and Boston	4.00

Name of Company.	Miles in N. Y. State
Port Jervis, Monticello and New York	41.75
PROSPECT PARK AND CONEY ISLAND (Steam)	5.87
New York and Coney Island	2.41
Rochester and Lake Ontario	6.04
Rochester, Hornellsville and Lackawanna	10.13
ROME, WATERTOWN AND OGDENSBURGH	375.96
Carthage, Watertown and Sacketts Harbor	29.59
Niagara Falls Branch	8.74
Norwood and Montreal	12.94
Oswego and Rome	28.49
Rochester and Ontario Belt	8.37
Syracuse, Phoenix and Oswego	17.11
Utica and Black River	149.81
Saratoga, Mount McGregor and Lake George	10.50
Schoharie Valley	4.38
Silver Lake	6.86
Skaneateles	5.00
Southfield Branch	1.00
STATEN ISLAND RAPID TRANSIT	8.00
Staten Island	12.70
Sterling Mountain	7.60
Stony Clove and Catskill Mountain	14.30
Syracuse and Baldwinsville	6.00
Syracuse, Ontario and New York	45.49
Tonawanda Valley and Cuba	30.00
Troy Union	2.14
ULSTER AND DELAWARE	74.00
Hobart Branch	4.00
Wallkill Valley	33.46
WESTERN NEW YORK AND PENNSYLVANIA	200.40
Genesee Valley Canal	98.90
Genesee Valley Terminal	2.46
Olean, Bradford and Warren	12.00

INSPECTIONS.

The following reports are condensations made by the inspector from his field notes. The field notes themselves are filed in the office of the Board, and show in very much greater detail the condition of the structures and road-bed. [R. R. Comm's.]

ADIRONDACK RAILWAY.

A careful examination was made of this property and its physical condition was found in many respects considerably improved, while in others there has been little betterment, and in some items of maintenance there was an apparent depreciation. The betterments most prominent are a new four-stall brick engine-house and a brick shop at Saratoga; also new sidings and grading of road-bed and yard at same point. With these improvements and the beautiful station and general offices in the same village, the terminal facilities must be adequate to meet the demands of business. Eighteen miles of steel rail, sixty-five pounds per yard, were laid prior to 1887, and some addition has since been made. The track through Saratoga has been relaid with steel, and at other points on the road steel rail has been substituted for iron. There are yet about eighteen miles of iron rail, with chair fastenings, in the superstructure. The balance of iron rail is secured at joints with fish-plates. The whole is in ordinary condition and will soon require to be renewed. The sleepers do not appear to be in as strong life as in 1887. There are a large number of new ties owned or delivered along the road, possibly 30,000, which undoubtedly are intended for its use. They are very much needed in the track. Attention is suggested to some of the Howe trusses, a few of which are liable to disaster by reason of floods, or another spring by ice flows, and others by depreciation in life of material. Over Sacandaga river there are four spans of deck Howe trusses, the main span of which over bed of stream is a new and strongly constructed deck-truss, thoroughly housed. It is in the best condition, and has strong masonry piers. The south span and the two northerly spans are now really trestle bridges. The trestles were constructed inside of the old trusses and extend up to the under side of track-stringers, forming bays of about ten feet each and about sixty feet in height.

The bottom of the posts and braces of these trestles, which are all of hemlock, show evidences of decay; probably one-third of the timber is thus affected. These trestles are not immediately dangerous, but it would be much better if they were removed and strong trusses erected. The timber has been four and five years in use. Crossing Wolf creek is a deck Howe truss, about fifty feet clear span. This bridge has very defective upper chords, and a bent is used at center of truss, without changing the main braces to a proper position. Ice flow occurs in this stream, and a new bridge is quite necessary. The next bridge is a 132-foot span Howe truss over Stony creek. This bridge has additional truss rods, and appears to be in good life. One abutment is in good condition. The north abutment is entirely gone, and trusses rest upon a timber bent. A new abutment at this point is needed.

Crossing Thurman creek is a sixty-eight-foot span low through Howe truss in the same condition as the bridge last mentioned. One abutment is gone, and the bridge rests upon a strong bent, cribbed and well ripped. A new abutment does not appear so imperative at this point. The low through Howe truss over Patterson's creek, fifty-one feet clear span, has additional truss rods, and trusses are in good life. The next bridge is an eighty-foot span through Howe truss having decayed chords. Bents are under it at each panel point. The stream is very rapid, and a new bridge is suggested. Over Mill creek is a through Howe truss in good life. It has additional truss rods at second and third panel points, and the abutments are in good condition. The floor has plank ties, which are insufficient to uphold a derailed wheel. A strong floor is suggested.

Over North creek is a Howe truss, covered and in good life. A forty-two-foot span Queen truss, near Kings station, is a strong structure and in good condition. There are six trestle-bridges, aggregating 2,200 feet in length. These trestles are in fair life of timber; some of them were being repaired. One of the five bays near Stony Creek wants a few new track-stringers. The single span openings from eight to fourteen-foot spans, ten in number, are mostly in good condition; some of them have trestle-bents with a lagging of plank for abutments. One of ten-foot span, south of Greenfield, has plank-ties which are of little use in case of derailment. South of South Corinth is a ten-foot-span trestle opening, with lagging badly decayed, and at south end of Hadley Rock cut is an eight-foot opening greatly in need of repair. The other single span openings are in very good condition. A large portion of the roadway has been cleared of underbrush out to boundary lines, but there is much like work needed to fully clear the roadway. The track adjustment is quite good on the northerly end, where the road-bed is very well ballasted with sand, but at the south end the line and surface of track was in ordinary maintenance. Each of the passenger stations were examined. At Kings, a newly-located station, is a new one-waiting-room frame depot. At Stony Creek a new one-waiting-room depot has recently been erected. Each of the other stations have been newly painted, and all were found commendably neat and in good condition.

ALBANY, N. Y., November 23, 1889.

To the Board of Railroad Commissioners:

* * * * In view of the fact that this examination was made some time before we began work of renewals and repairs on that line, I have to state that we now have in hand for renewal and repair all of the structures reported by your inspector, and have a number of contracts for iron bridges under way, and are also having all the trestles filled, having already filled about 1,600 lineal feet, and propose to prosecute the work diligently until the entire road is put in first-class order. We shall be very glad to have another inspection made of this road next summer, when I think it will be found in first-class order.

Yours respectfully.

H. G. YOUNG,
Vice-President.**BROOKLYN, BATH AND WEST END RAILROAD.**

A careful inspection was made of this suburban road which is fast approaching the status of a strictly rapid transit line. This result is being brought about in great measure by the improved maintenance and appointments of the road. At the time of the first examination of this property (vol. 1, pp. 325 and 326, report of 1883) very much appeared necessary to be done to place the road in a condition which would insure rapid and frequent transit with safety. It was then suggested that if such a result was attained, the increase of traffic would more than warrant the expenditure. Experience has proven the suggestion to have been well made as the all-year business has greatly increased, and the resident population more than doubled. The farm lands along the line are laid out in streets and avenues upon which dwellings of an excellent character are being rapidly erected. It was stated that at least 700 houses would be built this season at Bensenhurst and Unionville alone. The double-tracking of the road has been about completed, and steel rails substituted for iron throughout. Occasionally a too old sleeper was seen, but a sufficient number have been delierayed for renewals. The terminal depot at the intersection of Twenty-seventh street and Fifth avenue is in fair condition. It is an old frame structure which answers very well, and the trestle under train shed has been filled, making it perfectly safe for use. Additional land has been secured, and a new building, or renovation and enlargement of the present structure, is proposed. A temporary track from Fifth avenue along Thirty-sixth street leads to the South Brooklyn ferry terminus, with a temporary platform along the north side of the new depot and train-house of the South Brooklyn Terminal railroad. A connection near city line is to be made with that railroad and its tracks used into the new terminal depot. The Prospect Park and Coney Island railroad intend also to use the terminal tracks and depot, one track of which will probably be completed this season. The depot and yard referred to extend from Third avenue to the street fronting the new South Brooklyn ferry-house; the yard and train-house resting on Third avenue. Third avenue has a large traffic, including that on the dummy cars of the Brooklyn City railroad. The terminal railroad is on a steep grade reaching to this avenue. In the train-house are several pockets in which to receive and discharge trains. No cross-overs connect these stub tracks, and your inspector was informed that it is the intent to cut off the locomotives near the foot of grade, and allow trains to drift into the train-house by gravity. The number of trains which will be run, and the large street traffic, presents elements of danger. If gates are used across Third avenue to the hindrance of street traffic, possibly accidents will not occur, but it would seem to be on the side of safety that the motive power should govern speed of trains into the depot or train-house, and cross-overs placed near end of pockets. Effort should also be made to reduce the crossing of Third avenue as much as possible. The situation appears to suggest the inspection of your Honorable Board, if not considered too premature. From city line to Coney Island the Brooklyn, Bath and West End road has been much improved since the inspection of last season. A new frame depot has been erected at Bensenhurst. At Blethborne and Unionville there are small passenger buildings which will this season be replaced with more convenient structures. The draw-bridge (single track) over Coney Island creek is in good condition, and coal pockets have here been erected for train use. The adjustment of the track is nearly all that could be desired, and much of the road-bed has been raised up, thus securing better drainage. Generally the property is well maintained, both in permanent way, equipment and depots. A feature of safety is the removal of shade-trees along the margin of the highway, upon which for some distance the railroad lies. There are a few yet standing, which it would be well to remove, as their trunks are quite close to the sides of open cars. On Thirty-sixth street, east of Fifth avenue, the traveled way is crossed by the tracks three times in about 600 feet. It is suggested that these crossings be reduced to the one turning out of Fifth avenue, by throwing the tracks on Thirty-sixth street, south of the street boundary.

BROOKLYN AND BRIGHTON BEACH RAILROAD.

No particular change has been made in this property other than the completing of the removal, inland, of the large hotel and terminal building at Coney Island. This terminal building of itself is in excellent condition, but the ocean continues to encroach, doing considerable damage to the grounds in front and on the east side of the hotel. A docking of sufficient strength appears necessary to withstand the action of the water, in order to hold the terminal in its present location. The pile bridge crossing Coney Island creek has a new flooring of caps, stringers and ties. The piles are in fair condition. Little has been done thus early in the season to the superstructure of either of the main tracks. During the past year 9,000 sleepers were renewed and 3,000 are to be renewed this year. With the renewals in place as proposed, the ties throughout will be in very good condition. The rail is yet in fair order, crossing signs are all in place, and the fencing generally well kept up. The tracks were only in fair adjustment at time of inspection, but the work of readjustment had been commenced and a more per-

feet surface will be attained before the summer travel begins. Generally the slopes of the cuttings at the northerly end of road have been cleared of projecting boulders, but the side ditches require to be opened and road-bed cleared of stone and debris. The work of renovating passenger cars and overhauling of trucks preparatory to the summer business, is in progress. At Sheepshead Bay a new waiting-room and hotel combined is in course of construction. The other station buildings and wayside platforms are as before reported. Some repairing of platforms is necessary, and which will undoubtedly be done. The efforts of the company for the past year have mostly been expended in the moving inland of the Coney Island hotel and terminal, and regrading and beautifying of the grounds surrounding. This work was neatly done, and it is unfortunate that again the ocean encroached so seriously.

OFFICE BROOKLYN AND BRIGHTON BEACH RAILROAD COMPANY,
BROOKLYN, May 25, 1889.

WILLIAM C. HUDSON, Esq., *Secretary Board of Railroad Commissioners:*

DEAR SIR.—The president of this company desires me to acknowledge the receipt of your favor of the twenty-fourth instant, inclosing a copy of inspector's report of the condition of this road, and to state in reply thereto that the repairs and improvements along our line are practically finished, and we are ready for the summer business.

Very respectfully,

E. L. LANGFORD,
Secretary.

BROOKLYN AND ROCKAWAY BEACH RAILROAD.

The last inspection of this road was made in 1886 and reported on page 189 of the first volume of the Commissioners' report for that year. It is a single track line of about three and one-half miles in length, between Atlantic avenue in East New York and Canarsie on the north shore of Jamaica Bay. During the summer months a steamboat line, owned by the same company, connects the railroad terminal at Canarsie with Rockaway Beach, forming a route to the seashore extensively patronized. The same excellent maintenance of road and in some respects materially improved, exists, as reported in 1886. Much of the superstructure has been raised by rebalasting, and sagging grades filled, improving the drainage of road-bed and plane of road. The superstructure is also well tied and sleepers are in strong life, requiring but few renewals this year. Sixty pounds per yard steel rails are used in repair of track which gives a preponderance of strength for the light motive power. Point switches have replaced the old stub pattern in nearly all instances. Generally the line is quite direct and the few curves are strongly braced. The adjustment of tracks, even at the early season of this inspection, was found quite accurate. A few only of the old rails need to be renewed, which will be done at once. There is but little fencing on the road. Between the appropriated limits the roadway is well kept and free from weeds and debris. Only two openings exist other than a few cattle-guards. These openings are but six feet wide. They have good stringers and ties. The omission of spacing ribbons is to be at once supplied. The equipment of motive power and passenger cars has been increased and the whole was being put in good order, especial attention being given to the trucks, air-brakes and the like. An extensive enlargement of the terminal grounds at Canarsie is being made. The docking on the south and east side is being extended into the bay and the filling in of same from borrow pits and channel dredging is in progress. This work was necessitated by the increasing number of people using the road, and to give sufficient room for local and through travel. Trains are not run at a high speed, but the road is maintained in a condition that would warrant it. Care appears to be exercised which speaks well for the management and safety of the patrons of the road.

BUFFALO CREEK RAILROAD.

On page 190 of the first volume of Commissioners' reports for 1886 may be found a report of the last inspection of this property. The examination of the present season shows an improved maintenance of rail and sleepers, also a better adjusted track and other material improvements. Three and one-third miles of steel rail have been replaced, and 16,200 sleepers renewed since the previous inspection. Over the city ship canal the two 100-foot spans of swing through Platt trusses have both been utilized by dredging the southerly channel, and constructing a new bulkhead on south bank of canal. During the past year the road along the shore of Lake Erie has suffered much by the action of waves, the result of severe wind storms. To some extent, the construction of an apron protection has secured the road-bed from the repetition of like disaster. The two 150-foot spans of through Platt truss over Buffalo creek are in good order, and bridge-ties in fair life. Guard-posts have been erected at the ends of all through trusses. Those tracks used, in part, for the transportation of passengers, have been provided with point-switches. The trestle bridge near the crossing of the Erie railroad, at East Buffalo, has been filled, and a box culvert for drainage purposes constructed. There are now two trestle bridges, one of which, of four bays, adjoins the grade-crossing of the Lake Shore and Michigan Southern railroad, and could be filled. The other trestle, of seven bays, is in strong condition, and has a good floor system. Most of the main line is double-tracked, and from the immense use of the line by the six or seven connecting trunk roads, which, of necessity, use the Buffalo creek tracks, it would appear that a double track over the entire line would add much to the facility of handling the great number of freight cars daily interchanged.

CARTHAGE AND ADIRONDACK RAILROAD.

Since the inspection of 1877, an addition of about fourteen miles, extending eastward towards Tupper's lake, has been constructed and put in operation. This extension is through a rough country for the first five miles, at least, requiring heavy curvature and

grades. The road between Oswegatchie and Little River has been completed since the present inspection was made. Between Jayville and Oswegatchie, nine and one-half miles, the road is well constructed. The single openings, from six to twelve-foot spans each, have excellent masonry abutments; there is also considerable box culvert masonry and one arch culvert. Between the same points there are five trestle bridges and one pile bridge, aggregating about 2,672 feet in length and from twelve to thirty feet in height, constructed of hemlock timber. The bays are about eleven feet wide, and have double stringers, eight by sixteen inches section. Crossing Little river is a Whipple iron-deck bridge of eighty-foot span, resting upon good masonry abutments. Between Jayville and Carthage the road is about three years old, and was found in much the same condition as reported in 1887. East of Harrisville, two soft marshes, which at one time were undoubtedly bodies of water, have proved troublesome, but the sinking of the embankments crossing these has been about overcome. West of Diana are twenty-seven single-span openings from six to twelve feet each and four openings of twenty feet. Those of twenty feet have double I beams for girders. The stringers of openings less than twenty feet are of hemlock timber. The lesser openings have two stringers of hemlock seven by fourteen inches area under each rail. All have good floors and substantial masonry abutments. The eighty-foot span through Pratt truss, with a plate, girder through bridge adjacent, near Harrisville, and the fifty-foot span through Pratt truss at Natural Bridge, are, including the masonry, all in good condition.

Between Diana and Carthage are four trestle-bridges, from nine to 110 bays each, aggregating about 2,200 feet in length. One of these is over a highway. Two of them have box culverts for passage of water, and one has the piles driven for foundation of an arch culvert. The bays of these trestles are eleven feet in width, without corbels. The stringers are hemlock, seven by fourteen inches area, which, owing to the nature of the material, appears to be too small for the weight imposed, a fact recognized in the new work east of Jayville, where same spans have two stringers, eight by sixteen inches, which is not excessive.

It is suggested that additional stringers be placed on the eleven-foot spans and over, west of Jayville.

These structures are all built of hemlock, and are about four years of age, being at that stage of life in which they will rapidly deteriorate, and it is suggested that the time for filling them, if possible, has arrived, or renewal will soon be necessary. The superstructure is well maintained throughout. Gravel ballast of good quality has been plentifully used and the track adjustment is excellent. The roadway is very neatly kept and fences strongly maintained. The depots are the same as noticed in previous report.

CATSKILL MOUNTAIN RAILROAD.

(Three feet gauge.)

Including the Cairo Branch there has been no change in the outline of this road since the inspection of 1887. Many improvements have been made on main line and branch, among which the following were noted: The trestle work at the terminal on the Hudson river has been filled and sidings lengthened. East of South Cairo a few short sags in road-bed have been filled, the work of reballasting has been continued and at this time the entire superstructure is very well ballasted. The iron trusses and minor openings with timber-girders were each examined and found in good condition, with the exception of one short opening near Catskill, where the masonry is broken and falling, and an iron pipe should be used or masonry rebuilt. On the Cairo Branch, near junction with the main line, a further improvement has been made in the grade and alignment. The superstructure was found in good order, both in adjustment, condition of rail and life of sleepers. All of the roadway is neatly kept and the fencing well maintained. At Cairo junction no depot has yet been erected, but sidings have been laid for the better dispatch of trains. Each of the station buildings were examined and found neatly kept and in good order. The passenger cars have been renovated and the motive power is kept in excellent condition. As a whole the road and equipment is well maintained.

CENTRAL NEW ENGLAND AND WESTERN RAILROAD,

A new single-track standard-gauge railroad fifty-eight miles in length, extending from Silvernall's junction with the Hartford and Connecticut Western to Campbell Hall where a junction is made with the New York, Ontario and Western, the New York, Lake Erie and Western, and the Pennsylvania, Poughkeepsie and Boston railroads. The company leases or owns the bridge over the Hudson river at Poughkeepsie, and leases the Hartford and Connecticut Western railroad. It has recently opened its line for business, and, being entirely new, only a rapid examination was made. The superstructure is laid with seventy-pound steel rail secured at ends with the Fisher joint; the sleepers are of oak and chestnut, large in size and closely spaced. Low switch-stands and point-switches are used. The road-bed is well drained and ballasted, and for a quite new track is in very good adjustment. Only at rare intervals was there any unevenness to the line or surface, which was probably caused by settling of road-bed. For two miles each side of the Poughkeepsie bridge the road is double-tracked and ballasted with broken stone. The roadway is well fenced with wire and posts; gates are provided for all farm-crossings and warning signals at highways. There is considerable pile and trestle bridging, all of which, except the piles, is of yellow pine, ample in size and generally well constructed. Of this character of work there are twelve bridges of pile or trestle work from two to 128 bays, of eleven and one-half feet each, aggregating 7,130 feet in length and generally about seven feet in height. One of these, west of Stamfordville, has settled out of line and surface at one point and another; a pile bridge east of Centreville has the same defect; both probably owing to faulty construction, which will require to be remedied or will prove troublesome when the heavy traffic contemplated is placed upon the road. Beside the Hudson River bridge there are twelve plate-girder bridges, from fifteen to seventy-foot spans, and a plate-girder viaduct about 200 feet in length; also six Pratt pin trusses, from

seventy to 120-foot spans each. Of minor openings there are a number of I beam girders and a few with wooden-stringers. All these have strong floors and rest upon masonry of excellent character. The passenger stations are frame buildings, neatly designed, well built and comfortably furnished. Some of them are heated with hot-air furnaces, and nearly all have covered platforms around entire building. At Campbell Hall a large frame passenger depot, to be occupied jointly by the connecting roads, is under construction.

Hartford and Connecticut, Western Division.

This railroad is in much better physical condition than when inspected in 1887. Between Silvernail's junction and State line it forms a part of the main line for the proposed through traffic of the Central New England road. To meet this demand, the bridges and openings have been strengthened, new steel rail of seventy pounds per yard weight laid, point-switches put in and the sleepers largely renewed and increased in size. Much of the road-bed has been rebalasted and the track carefully adjusted. New masonry has been laid where necessary and yellow pine stringers of larger size used. A number of Howe bridges have been reinforced in trusses and floor. In a word sufficient work has been done to nearly bring the road up to the standard of the new line between Silvernail's and Campbell Hall. In strengthening a Queen truss of thirty-foot span near Copake station, piles have been driven under it forming three bays of pile bridge. At the Copake mines a forty-foot-span deck Howe truss has been reinforced by adding an outside strand on the upper chord. The trusses are in good life of timber, retain their camber, and show no signs of failure or pulling of lower chords. West of Copake are two spans of fifty-three feet each, low through Howe trusses, having additions to lower chords, on each side of solid strands seven by twelve inches section. These trusses also have additional rods, and each panel two additional floor beams. West of Ancram are two spans of same kind of trusses forty-five feet each, that have been strengthened in like manner. West of Gallatinville is a Howe through of 100-foot span, similarly reinforced. West of Silvernail's junction and extending to the Hudson river at Rhinebeck, a distance of twenty-two miles, the improvements are not so great as on the eastern end of the line, but it is a better conditioned road than it was in 1887. New steel has been laid and a further renewal to be laid this fall will remove all but about thirteen miles of the iron rail. One or two trestle-bridges have been filled and the Howe trusses, five in number, from fifty to 100-foot spans have been reinforced. These Howe trusses were all carefully examined. They are four years old, closely covered and timber is in good preservation. At Jackson Corners, a new pile bridge of eighteen bays of sixteen feet each has been rebuilt of oak and yellow pine, with masonry piers under each bent. A similar pile bridge of two bays, east of Ellerslie, has been rebuilt, and west of the same point a trestle of nine spans has been reconstructed. Several short pile bridges of two and three bays have new yellow pine intermediate bents. The cattle-guards have mostly been filled and slats substituted. The trestle-bridge passing over the Hudson River railroad and extending down to the coal dock along the river, has too much old and unreliable timber in it. A careful renewal should be made of all the partly decayed timber, and stronger braces placed in the structures, both laterally and longitudinally. About midway between the river and Rhinecliff upper station, is a trestle of eighteen bays of eighteen-foot span each, and about thirty feet high. This bridge is now in fair condition and has a culvert beneath for the passage of water. It is suggested that this trestle should be filled while the timber is in strength to resist the stress of compression during the formation of the embankment. Generally, the superstructure is well maintained, the roadway clear of weeds, underbrush and debris, and the drainage of the road-bed well developed. Throw-off switches are placed in all grade sidings. The station buildings are the same as reported in 1887, except at Red Hook, where is a new frame depot, small, but very comfortable. As a whole, this property presents a better track, and stronger bridges and minor openings in road-bed than it did two years ago.

CENTRAL VERMONT RAILROAD.

Saratoga and St. Lawrence Branch,

From Moriah, on the Ogdensburg and Lake Champlain railroad, to Bombay, on the United States and Canada railroad, eight and a half miles in length. The country traversed is flat, and road-bed is largely embankment from three to eight feet in height, with a few light cuttings. The grades are nominal and curvature easy and little of it. At time of inspection about one-half the line was unballasted, with track irregular and at subgrade. A construction train was engaged drawing sand for ballast, and parties were perfecting the track adjustment. There is no masonry in the road. The sleepers are hemlock and tamarack spaced, 2.865 per mile. The superstructure is laid with fifty-six-pounds per yard steel rails, with angle-bar fastenings. A Y connection forms the junction with the United States and Canada road at Bombay. All the openings, twenty-eight in number, twenty-five of which are single spans, from six to eight feet in width, have hemlock docking ten by ten inches timber tied into road-bed. The stringers are two, six by fourteen inches white pine under each rail, and one of the same size under the ends of ties. The ties are eight by eight inches, spaced eight inches, and twelve feet in length. Guard-rails of like section are bolted to the end of ties. There are two pile bridges over Lawrence brook. They have six piles at each bent, with caps twelve inches square, and stringers and floor, same as on the single-span openings. The pile bridges are of nine and seven bays each. At the junction with the Ogdensburg and Lake Champlain railroad, are thirty bays of low, temporary hemlock trestle, which will probably be filled before the road is opened for traffic. The roadway is inclosed with five steel wire fencing, and gates at farm-crossings. At highways are neat caution signs, over the traveled road. There is one depot, owned by the Saratoga and St. Lawrence Railroad Company. It is at South Bombay, and is a neat Queen Anne frame building, passenger and freight combined, and well furnished.

CHATEAUGAY RAILROAD.

Since the last inspection of this road, made in 1887, the extension between Loon Lake and Saranac Lake, a distance of nineteen miles, has been fully completed. It is thoroughly built, other than in the use of logs in constructing abutments at the open waterways, but these for the time being are ample in strength. There is one structure of stone and iron which crosses Saranac river, a seventy-five feet span plate-girder deck, with T abutments. Vitrified pipes, with masonry parapets, are used for small waterways and surface drainage. The line is generally quite direct, but in some instances the curvature is sharp and frequent. One tangent is four and one-half miles long. This extension, in fact the entire thirty-two miles west of Standish, except a few short spaces, passes through a dense wilderness. Several trestle bridges on the older portion of the road between Dannemora and Lyon mountain have been filled after constructing suitable culverts for the passage of water. A trestle of twenty-four bays near the iron mines, and another immediately west of Lyon Mountain station of twelve bays, are to be permanently maintained as necessary for the mine use of roadway underneath. All the trestles remaining between the one last mentioned and Plattsburgh, four in number, aggregating 600 feet in length, will probably be filled during this and the following season. Between Lyon mountain and Saranac lake are fourteen trestles from seven to eighty-four bays, each of eleven-feet span, aggregating 3,267 feet in length, and from ten to forty feet in height. These trestles are between two and three years of age and thoroughly built. There are also a number of single and double span waterways, all of which have either bents and lagging or log abutments. The entire openings in road-beds have a good strong floor system except two short spans near Lyon mountain where the rail lies directly upon the track-stringers. Care is taken to keep the drainage of the road-bed fully developed, and the roadway, except in the denser portion of the wilderness, is neatly kept. In the wilderness all brush and trees are neatly cleaned to the width appropriated for the road's use, which is about 100 feet. Strong post and board fences are maintained where the road adjoins farming lands. The entire road-bed is now thoroughly ballasted, the sleepers are all in strong life, and the line and surface of track is exceptionally well maintained. Each of the passenger stations were examined. Dannemora depot is in very neat order and well furnished. At Russia the depot has been newly overhauled and is tidily kept. The Lyon Mountain station, used in greater part for general offices, was found in like condition. Loon Lake has the beautiful depot noted in last report. Bloomingdale (Paul Smith's) has a suitable frame station building, and at Saranac Lake, the present western terminus, a good frame passenger station, with covered platform, has been erected. As a whole, the property is of a grade of maintenance equal to the average of our standard gauge lines.

CHAUTAUQUA LAKE RAILROAD.

A comparatively new railroad, having been in operation two years. Since the inspection of 1887, an extension about three-fourths of a mile in length has been constructed south from Fairmount avenue depot, crossing at grade the New York, Pennsylvania and Ohio railroad, and the outlet of Chautauqua lake to the side opposite the main part of Jamestown, the terminus of which is used for freight purposes. The short branch known as the Mayville Extension, from Mayville to the Chautauqua Assembly grounds, is leased by this company, but has not been operated for one or two years. It will suffice to report that it cannot be safely operated till the sleepers and rail are nearly all renewed, and other work of maintenance done upon it. The newly built extension is very well constructed. On it is a pile bridge of sixteen bays of ten feet each, having four piles per bent, with double stringers, seven by fourteen inches section. Adjoining this, and crossing the outlet, is a 107-feet span through Howe truss on oak pile abutments, the whole of strong construction and provided with a good floor. At the grade-crossing of the New York, Pennsylvania and Ohio railroad a Saxby & Farmer interlocking switch and signal system is used. Between Jamestown and Clifton the road passes through a morass bordering the outlet. Considerable trouble has been experienced here by the settling of the road-bed and a work-train is employed in filling, but as yet a permanent way has not been obtained other than in this swamp the road-bed and track are in very good condition. Originally the superstructure was not ballasted to any amount. The work-train referred to was partly occupied drawing gravel for that purpose. Ditches in many cuttings were filled by slides and require to be opened. There are eleven trestle and pile bridges other than the one before mentioned, from two to fifteen bays of ten-feet span each aggregating 676 feet in length, and from two to ten feet in height. The bents and abutments are all of hemlock timber, in fair condition. The stringers are pine, seven by fourteen inches, double, and all openings are well floored. Of single openings there are forty-four, from four to twelve-feet span, each of which has bent, pile or docking abutments of hemlock timber. There is no masonry in the road. A few box culverts of timber are under embankments. A cattle-pass of eight-feet span, on a curve near Long Point, has inside stringers gained on the cap, to overcome elevation, too much of the timber being cut away, which was to be remedied. As yet the timber in these structures is in good life, and the sleepers are strong throughout. At Jamestown, Griffiths, Bemus Point and Dewittville are good frame passenger buildings, newly constructed, and, with the exception of Jamestown, neatly kept. In general, the road is new, and when superstructure is completed, ballasted and readjusted, will be in excellent condition.

COOPERSTOWN AND SUSQUEHANNA VALLEY RAILROAD.

(Lessor.)

On page 152 of the first volume of Commissioners' report for 1887, will be found the inspector's last report of this property. An extension south from the junction with Albany and Susquehanna railroad near Colliersville, three miles in length, and con-

necting with the same length of new road, constructed by the Charlotte Valley Railroad Company, has been recently completed and put in operation, but was not finished at time of present inspection. This season the Cooperstown road was found in about the same condition as when last examined. The track is now laid entirely with steel or steel-capped rail, the latter of which has to the extent of about three miles been relaid this and last season, with solid steel. Angle bar-rail fastenings and point switches have to some extent been put into the track. With few exceptions the sleepers are in good life of timber, and the adjustment of track workmanlike. At a few points, however, the ties are too old and an ordinary line and surface of track is in part the result. Generally the fastenings are fish-plates and these are occasionally destitute of their full number of track-bolts. The iron bridge and masonry substructure over the Susquehanna river, near Hartwick seminary, are in good order. Over this stream, near Portlandville, is the same wood structure reported in 1885 and 1887. It has always been covered and the timber is in a good state of preservation. It is 156 feet clear span and has auxiliary arches on each side, but at this time they are not in use as the bridge is beamed at its two center panels. It was said by officers of the company that ice flow seldom occurs in this part of the river, but that it sank or wasted away. Certainly there can be but little current to the river at this point. The abutments are pile bents, in fair life. It is now proposed to shorten the bridge one panel length at each end and set the braces and truss-rods ahead one bay, which would probably give ample material in all the truss members for the present weight of traffic. The chords of this truss should also be repacked. Each of the minor openings were examined, and, with few exceptions, found in good order. For spaces up to eight feet T rails are used for track-stringers; for spaces of eight feet, and upwards to ten feet, two pine timbers eight by sixteen inches section, under each rail are used. One space of twenty feet has three stringers, seven by eighteen inches section, under each rail. All openings have ties, but the use of guard-rails is mostly omitted. The original masonry of these openings was constructed of local stone which is of a slaty nature, and has more or less disintegrated. This, with the action of frost, has materially injured its condition. A number of these substructures have been rebuilt with a better quality of stone laid in cement. There yet remains, however, a number of small abutments to be rebuilt. A cattle-pass near Cooperstown, another near Phoenix, and near Clinton is a ten-foot span waterway with falling abutments shored up. A pile-bridge of four bays near same point upon which are new pine stringers requires its bents to be rebuilt at an early day, as they are quite too old for absolute safety. South of Milford is a ten-foot span under-farm-crossing with masonry abutments which should be rebuilt. South of Portlandville is a ten-foot-span water-way with its abutments bulking inward, and liable to fall. With these few exceptions, the minor openings are in good physical condition. The passenger stations were found about the same as before reported. Air-brakes have been recently placed upon the passenger cars and locomotives. Generally the road is in fair order, and if the above-noted exceptions were made good, the property would be in very excellent condition.

CROWN POINT RAILROAD.

(Three feet gauge.)

This narrow-gauge road extends from Crown Point to Hammondsville, a distance of thirteen miles, and is principally used for the transportation of iron ore. No passenger equipment is owned and tickets are not sold. A few passengers are carried in a freight caboose, most of which are employees of the iron company or their families. There is considerable trestle-bridging on the road, all of which is constructed of yellow pine. One span of forty feet. Post deck bridge, constitutes all the trussing. This structure is very strongly built and has good masonry piers under the bents forming the abutments. In all there are eight pieces of trestle-work from three to thirty-eight bays of ten feet each, and from eight to forty feet high. They are all built of yellow pine, have ample-sized members and good floors. Generally they have inside guard-rails of iron. The cattle-guards have to some extent been filled and the few yet in the road want more or less repair. The single-span minor openings have masonry abutments, some of which were being rebuilt. Water barrels and watchmen are placed on all important trestles. The superstructure is well kept up. It is laid with steel rails of about fifty pounds per yard, secured at ends with the Fisher joint, and upon large-sized hemlock ties closely spaced. The track is in very good line, and surface and road-bed for the greater part well ballasted. Care is taken to keep up the fences, the roadway is neat and tidy, and all highway signs are in place. There are no regular depots as there is no intent to carry passengers. Waiting-rooms are provided in buildings used for stores at Hammondsville and a covered platform at Crown Point. The property appears to be very well kept up.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD,

Main Line,

From Pennsylvania State line to the city of Buffalo, a distance of 212 miles, all double-track steel rails, of sixty-seven pounds per yard weight, mostly new oak sleepers; to some extent cedar ties are used on tangents. All openings, with one or two exceptions, which will be noted, are of masonry and iron. The road-bed is of ample width and thoroughly ballasted with gravel, and the track adjustment is of a high standard. As stated in former reports, the permanent way is strongly maintained in every detail. The masonry is of the best construction, and the iron girders and trusses are beyond question of absolute safety. The floors of the bridges are of yellow pine. They consist mostly of floor beams closely spaced, with their ends resting on, or suspended from, bridge chords. In through girders they rest on a flange, a little above the base of girders. During the past year new timber of excellent character, of yellow pine, has been put into the entire floor of each bridge, and guard-rails of same timber strongly

bolted to the ties. All low overhead bridges have been raised to an elevation of twenty feet above the rail. As before stated, the sleepers have been entirely renewed within the past three years, and it is doubtful if there is an unsound tie in the whole main line tracks. All switches out of main tracks other than at cross-overs are of the Wharton design, and at facing points gravity-stands are used. All sidings have throw-off switches. The severe freshet of last June in the Chemung valley did serious damage to the road. A pier in bridge crossing the river, below Elmira, was carried away, and miles of road-bed were more or less washed out, all of which damage has been thoroughly repaired or rebuilt. The fences are strongly maintained without exception and roadway neatly kept. The wood structures before excepted are, a pile-bridge of fifty-seven bays at Elmira, a flood-way for Chemung river, and thirty bays of same at East Buffalo for a flood-way for Buffalo creek. These flood bridges are constructed of heavy yellow pine timber and oak piles, and are about three years old. Each of the passenger-stations were examined. Owego and Elmira excepted, the station buildings are frame structures well built, comfortably furnished, cleanly kept, and have substantial platforms or graveled walks. Each has recently been repainted, and, where necessary, renovated inside. At East Buffalo a long storage coal-pocket trestle on masonry for first story has been erected. Cars to be loaded pass under the pockets and are moved by gravity. The capacity of these pockets is about 150,000 tons. The trestle and pile elevated road between East Buffalo and the International bridge and the trestle portion of elevated track into Buffalo have all been filled.

Cayuga and Susquehanna Division,

A single-track road, thirty-four miles in length, extending from the Susquehanna river at Owego to Ithaca. This division has a light traffic, and its permanent way is not up to the high standard of the other lines operated by the Delaware, Lackawanna and Western Railroad Company in our State. There has been some improvement since the inspection of 1887, and, as a whole, it is in better condition than then reported. There is considerable truss and trestle-bridging of wood in different stages of life, and a few iron trusses and girders. The bridge over the Susquehanna, at Owego, partly on a curve, is of the best construction in iron. It consists of eight spans of Pratt pin through trusses resting upon excellent masonry piers and abutments. Between the switch-back and Ithaca are two new thirty-foot span plate-girders through over highways, and south of Cattaraugus is a 120-foot span Pratt pin through truss, at hand to replace a like span of Howe bridge, now too old, and another similar iron truss, 100-foot span, is at hand to replace a Howe truss north of Caroline. Besides these, there are eight through Howe trusses from fifty to 140-foot spans, four of which have two spans each; two, near Ithaca, have been rebuilt since the inspection of 1887, and all are not over nine years old. Some of them have good standard floors, and a few of the oldest have a track-stringer on the floor beams and rail laid directly on the stringers. These trusses are in good physical condition and have additional truss rods. One eighty-foot span near Ithaca has a number of broken angle blocks. All the truss bridges have good masonry substructures. There is a large amount of trestle bridging on this division. Very little culvert masonry appears to have ever been built. There are thirty-five separate openings, consisting of trestle-bridges having lagging or dock abutments, from one to seventeen bays of eleven feet each and from three to forty feet in height. They aggregate 1,450 feet in length; nearly all have the rail directly upon the stringers. Three of the above openings, one of which is a pile-bridge of ten bays, are of recent construction and have good floors. All trestles and their docking abutments or bents and lagging, as the case may be, are in very good life of material and appear to be renewed as rapidly as occasion requires. The matter of a strong floor on all these openings is again suggested. The life of sleepers has been much improved by more liberal renewals, but at points on the division the ties are yet too low in life and a further increased number of new ties yearly, for a time, seems necessary. The rail is now all of steel, mostly taken from main line, but is in ample strength for this branch. Very little ballast, if any, was ever put on the road-bed and it is difficult to maintain a well-adjusted superstructure on an earthy road. It is suggested that at least a minimum amount of gravel be placed under the superstructure. As a whole the track was in fair line and surface and roadway clean. The fences are somewhat neglected. Each of the depots were examined and found in about the same condition as in 1887. The depot at Ithaca was especially bright and cleanly, and at Owego the excellent brick depot of main line is used. Of the intermediate stations little can be said other than that they are crude and far poorer in build and maintenance than on other portions of the same system of roads.

Oswego, Syracuse and Binghamton Division,

One hundred and thirteen miles in length, thirty miles of which is doubled-tracked, viz., between Apulia and Cortland, and Chenango Forks and Binghamton. No change has been made in the outline of this road since the inspection and report of 1887. In maintenance there has been an advancement, especially in the substitution of iron for wooden trusses between Syracuse and Binghamton. The inspection began at Oswego, and between that point and Syracuse is a very excellent railroad. Many of the single span openings in road-bed have been filled since the last inspection, most of the cattle-guards have been changed to iron slats set in cast-iron shoes, and the cross-fences are in part pickets neatly built and white washed. The fences are strongly maintained, and roadway full width, is orderly and clean of grass, weeds and old track debris. At Baldwinville crossing of Seneca river are seven spans of low through lattice-bridge from forty-five to fifty-two feet each. The track-stringers and floor-beams have recently been doubled. The masonry, piers and abutments are of an excellent character. Near Syracuse is an eighty-span through tripple-intersected lattice-truss which, with its masonry substructures, are in good condition. Crossing the Erie canal in Syracuse is a similar bridge in like order. There are twelve openings from six to twelve-foot spans having good masonry and I beam-girders, and a forty-foot span deck-plate-girder

over Onondaga creek, also five timber structures from four to ten feet in width having strong yellow pine bents and stringers. The superstructure is very nicely adjusted, and the sleepers are in strong physical life. Near Syracuse for a distance of about one mile, the sleepers were in many instances quite old, but new ties were delivered along the road, and were being put in the track. Each passenger station between Oswego and Syracuse was examined. The brick station at Oswego has been entirely renovated and painted. At Fulton a new frame depot has been erected. It has one large waiting-room well furnished and good platforms. The frame depot at Baldwinsville is in a very dilapidated condition. The ceiling is broken, and otherwise the building is out of repair. At North Fulton is a new siding to the village and coal docks. The remaining stations are about the same as reported in 1887. Between Syracuse and Binghamton more change has been made than north of Syracuse, particularly in the truss bridges. In Syracuse, where was a Howe truss, is now a forty-feet span plate-girder through, with standard floor. Near Onondaga, over a highway, is a new I beam deck-girder of twenty-feet span where before were timber-girders. Near Messengerville where is a sixty-five feet of low Howe truss in poor life, is now at hand a like span of plate-girder deck. Near Marathon where is a sixty-feet span old Howe truss is another plate-girder, delivered. At Killawog in place of a too light girder is a twenty feet similar girder of heavy construction and new masonry abutments. Another span has been treated in like manner and a sixty-feet span through plate-girder has been substituted for one of too light build. All these have strong new yellow pine floors. North of Whitney's Point is a forty-feet plate-girder through, where a Howe truss was recently burned. South of Lisle are two new plate-girders, forty and sixty feet respectively. A number of openings of short spans have been filled and iron-pipes used for drainage. South of Chenango bridge four under-farm and highway-crossings, with wooden stringers have been changed to iron-girders. At the Y connection with Valley road at Binghamton is an old low through Howe truss, which is to be changed to iron whenever the city and railroads can agree as to width of the street. Besides the above new work, since the inspection of 1887, several through iron trusses have been strengthened and the masonry of a few short openings rebuilt. The track is very strong in sleepers and well lined and surfaced. Considerable ballasting has been done in the past two years. Gravity switch-stands are used at all points out of main line; these have high switch-stands. Between Blodgett's Mills and Messengerville, and between Whitney's Point and Chenango Forks, where the line is directly under steep rock bluffs, bordering the west branch of the Chenango river and the highway between the railroad and river, a desirable change has been made. The track is now next to the river, and the highway between it and the rocky hillside. A strong post and board fence has recently been built between the highway and the railroad, as a better security for teams. The passenger stations on this part of the division are in about the same condition as before reported. Syracuse has a fine brick depot, with large waiting-room and all conveniences, and is well furnished. The shops at Syracuse presented the same thoroughness of management before noted. The plant is well furnished with all needful machinery to build or repair engines or cars of all descriptions. Two or more culm-burner locomotives were in course of construction. Cortland depot has been newly overhauled. At Blodgett's Mills is a new frame one-waiting-room building. The other stations are each in good order, a few require repainting, and a number have very hard, uncomfortable sittings, and some have lawn and flower embellishments. A Saxby & Farmer switch and signal device has been placed at the Erie railroad crossing in Binghamton. Generally the road shows progress in its maintenance, and is all of strong physical life and good order.

Utica Division,

A single-track road, eighty-four miles in length, extending from Utica to Chenango Forks, and a branch line twenty-two miles long, from Richfield Junction to Richfield Springs. Since the inspection of 1887 a marked improvement has been made, in the substitution of iron for wooden trusses. At the crossing of the Erie canal in Utica, a two-span swing-pivot plate-girder through has been put in, taking place of a like span lattice, which was too light for present weight of engines. At the crossing of the bed of the old Chenango canal, near same city, is a plate-girder deck in place of a wooden-girder rod-truss. Crossing the Sauquoit creek at New Hartford, Washington Mills and south of Chateaufort are three separate through Pratt pin-trusses in place of wooden structures. Over mill-race south of New Hartford is a sixty-feet span plate-girder through in place of a pile bridge. Over a mill-race at Chadwick's is a forty-feet span deck plate-girder in place of a wood structure. It has new abutments. Between Hubbardsville and Earlville are four separate plate-girder through bridges of forty and sixty-feet spans resting upon new yellow pine double bents where were Howe trusses. At Lyon Brook where was a Howe bridge is now a forty-feet span through plate-girder. At Coventry, where was a similar wood-truss is now a fifty-feet span plate-girder through on good masonry abutments. At Indian creek where was a Howe bridge is now a fifty-feet span plate-girder through. Crossing over the New York, Ontario and Western railroad is a new through plate-girder in place of one of like kind too light for present use. The foregoing new work removes all the wooden trusses on the main line of the Utica division. A trestle 170 feet in length near North Norwich has been filled, except a span of fourteen feet left for an under-crossing. Near this point are ten bays of new yellow pine trestle, but which requires new stringers. Between Norwich and Coventry are several new yellow pine trestles. At the crossing of the Chenango river, north of Willards, the iron bridge has fifty bays of trestle at north and twenty-four bays at south end built of hemlock, new in 1887. A considerable part of these trestle approaches could be filled. At crossing of the same stream above Chenango Forks are twenty-two bays of hemlock with single-track-stringers and forty-five bays of same with double-track-stringers at north end of iron bridge, and fifteen bays hemlock trestle at south end. A part of these trestle approaches are on a curve and three or four hundred

feet could be filled. Other than the above there are 114 separate openings of one span each, from four to twenty feet in width, and thirteen pile and trestle-bridges from two to twenty bays of eleven feet each, aggregating 900 feet in length. A few openings for waterways have iron pipes of twenty-four inches diameter for drainage, and openings filled. A number of single spans have poor masonry, which should be relaid, or where it can be done, iron pipe inserted and opening filled. A ten-bay trestle-bridge north of Sherburne has inclining bents and poor floor. South of same place is a pile bridge of six bays and one of four bays wanting repairs. Considerable reballasting has been done since previous inspection, the road-bed has been widened and ditches well opened. The sleepers are all in strong life. They are of oak on curves and to some extent cedar is used on tangents. The track is in fine line and surface, and roadway neat and orderly and fences well maintained throughout the whole division. A new depot has been erected at North Brookfield. The depot at Sherburne is quite old and inferior to other stations of like importance. With this exception, all the depots are of excellent construction, well suited to their different localities and use. They were in good condition, very clean and orderly both inside and in their surroundings.

Richfield Springs Branch,

A single-track road laid with steel rails, nearly all taken from the main line, not overworn but in fair condition for the amount of traffic over it. The sleepers are in strong life, track well adjusted, roadway neatly kept and fences strongly maintained. Near West Winfield is a sixty-foot span through plate-girder where was a Howe truss, and near Richfield are three separate girders of like kind in place of wooden structures. The trestle over Unadilla river at Bridgewater is now a strong bridge. At West Winfield are four bays of trestle over Mill-race and east of same point one of seven bays, both in fair condition, but must soon be renewed and masonry, and iron are suggested for that purpose. Over creek at East Winfield are seven bays of new pile bridge and two bays of trestle in good order. At South Columbia is a four-bay trestle-bridge in very poor condition; bents incline eight inches out of perpendicular, and only ten feet high—wants overhauling. A twenty-foot span waterway has high abutments of dry masonry, which are bulging inward. They are strongly shored up and for the present perfectly secure. Near Richfield Springs are thirty-four bays of hemlock trestle, five years old. The bays are about ten feet wide, and trestle twenty-two feet high. In this trestle is a straining-beam truss of about thirty-foot span for a waterway, and on this truss bents rest. The whole trestle is rather old, and there are some cross-grained stringers. At the depot is a similar trestle 150 feet in length. It is suggested that it would be well if these could be filled, as the cost of renewal in pine timber would go far towards the expense of a permanent road-bed. West of South Columbia are three pile bridges of two and three bays which will soon require to be rebuilt. Other than the above are twenty-two single-span openings, some of which have iron-girders and others of wood, all in fair order, except in a few instances the masonry should be relaid. A new frame depot has been erected at South Columbia. The stations at Richfield Junction, Bridgewater, Unadilla Forks and West Winfield are hardly suitable, or in keeping with others of like importance. These, however, with all the other stations, were found cleanly and orderly.

ELMIRA, CORTLAND AND NORTHERN RAILROAD.

The last inspection of this property was in 1887. Since that period no changes in outline have been made excepting a branch three-quarters of a mile in length has been built from Lake Side station to Sylvan Beach. Some improvements have been made in bridges, of which there is a large amount, mostly trestle and pile structures. There are a number of iron trusses, viaducts and plate-girders to which has recently been added a new viaduct 840 feet in length and about seventy feet in height, crossing a ravine at Brookton. It is composed of Warren girders about fifty feet each in length, supported by open column iron bents resting on substantial masonry pedestals, and takes the place of trestle work. It has a strong yellow pine floor, well guard-railed and its construction is creditable to designer and builder. The work of permanently rebuilding the very many timber structures having been commenced, it is hoped it will be continued till all the pile bridges and trestles, including the single spans of short width are changed to stone abutments, and, so far as reasonable, iron girders. There are over 200 separate openings built of timber in the road-bed, from one to two hundred and sixty bays each of from four to twelve feet clear spans. These range from three to forty feet in height, and aggregate about 15,000 feet in length. There are three through Howe trusses, two of which are double spans of about fifty feet, and one fifty-seven feet, each resting on timber-bent abutments. Bridge 67 is one of these Howe trusses. It has settled below a horizontal line and should be rebuilt. Bridge 69 is another, of two spans, one of which has a broken lower chord, which was being repaired at time of inspection. It is doubtful if this truss is sufficient for the heavy engines and traffic now imposed, and a stronger truss is desirable. At the crossing of Oneida river is another similar truss of fifty-seven-foot span, three years old. The lower chords of this bridge have opened at ends of strands about one inch and effort was being made to hold the thrust of braces, by using two rods of round iron the whole length of chord. It did not appear certain that these rods and the chord between panel points or whole length of truss, would act in unison. This truss is too light, and a stronger bridge is suggested. There are through Pratt pin-trusses over the Erie canal and over the Central-Hudson road at Canastota, each having good abutments. Near Cazenovia is a 100-foot span, Phoenix column through Pratt truss, over outlet of the lake. The trusses have been reinforced and a new floor provided. Between this structure and De Ruyter are four iron deck trusses, having Phoenix posts, two of them thirty and two forty-foot spans. They have

good floors, strong masonry abutments, and have recently been painted. South of Swartwood are two iron viaducts, one 400 feet long and 110 feet high, the other 700 feet long and about fifty feet in height. They consist of Phoenix column bents and Fink deck-girders. As yet these viaducts have not been reinforced as suggested by the Board. The through Pratt pin-trusses over Fish creek, jointly used with the New York, Ontario and Western railroad, is in good condition; but experience has proven, and it is suggested, that it would be on the side of safety to remove the grade-crossing from the center of the bridge, and have the connections and crossings arranged by switches at a safe distance from each end of the bridge, with only one line of rails crossing the structure. As before stated, there are about 200 trestle or pile openings, nearly all built of hemlock timber. Yellow pine has latterly been used for track-stringers, but there is about one-half of total length of openings having hemlock stringers. Oak and chestnut are used for piles, except occasionally they are of soft wood. The immense quantity of timber in these structures requires close care and watchfulness against undue decay and fire. Many openings were noticed where renewals seemed necessary at once, while others were of entirely new timber. In instances the planking (lagging), behind shore bents forming abutments, was so far decayed as to excite fear of embankment against the bent slipping into the opening. Many floors had recently been renewed with good ties, and many others required such repair. Reference to the field-notes on file will give a clear detail of each structure. From the fact that much of this timber work will be retained for some time, it is suggested that all renewals be made of yellow pine and white oak timber. The peculiar character of yellow pine is to decay from the outside inwardly, while with hemlock and white pine it is almost invariably the reverse. One can thus see from the outside and safely determine the amount of sound timber in a yellow pine stick. Next to iron and stone this wood is the most desirable for exposed uses. With all the openings and trestles in this road thoroughly built of yellow pine and oak for piling there would be relief as to their condition for a few years at least. Iron pipe for small drainage and box culverts in many trestles would admit of filling a large amount of openings. The long spruce-pile trestle at Canastota is rapidly deteriorating, and should be filled. It was only intended for temporary use. The superstructure is in fair condition, except the sleepers are too low in general life for the heavy engines and cars now used. Sixty thousand pounds net loads are often drawn over the road. Such traffic requires, for absolute safety, that all the sleepers should be perfectly competent to hold the track in gauge. A larger renewal is suggested. Some ballasting has been done since the previous inspection. The adjustment of the track is for the greater part ordinary while on a few sections there is a very good line and surface. On the sharp curves between Cazenovia and Perryville, iron ties, to hold the track in gauge, are used. Probably when the traffic will warrant, these curves will be lightened, and the summit between the same points reduced. The ditching of road-bed is fairly developed, and roadway is in part clean and orderly. The fences appear, as a whole, greatly neglected. Some new wire fence has been built, but generally it is more or less broken or entirely gone, except on the new road north of Canastota. Possibly it was best to defer as much as possible the rebuilding of fences and direct all energies, as has been done, in raising the standard of permanent way from the very low condition it was in when first obtained by the present management. Quite a number of grade highway crossings are destitute of cautionary signs, which should be provided. The depots were each inspected. At Sylvan Beach a new frame building has been erected, tasteful, convenient and well furnished. At Camden a frame depot for passengers and freight has recently been built. The depots at Rippleton, Cortland and Spencer have been renovated and painted. It is but proper to report that the freshet of June last did much damage to the road-bed south of Wilseyville, and the time of section men from all points on the road has been in great part occupied in repair of the flood havoc, to the neglect of their own work, which accounts in part for the ordinary line and surface of the track.

FALL BROOK COAL COMPANY'S RAILROAD.

Syracuse, Geneva and Corning Division,

From Geneva to Corning, fifty-eight miles, all single track, laid with seventy-six-pound steel rails, with forty-inch angle-bar fastenings. Since the previous inspection, in 1887, all the then remaining wood girders have been replaced with iron. A number of culverts have been built and openings filled. In most instances pit cattle-guards have been done away with, and slats substituted. This, with the bridges previously built in iron and stone, makes the structures on entire division very strong and permanent. The track adjustment is of high standard, all the sleepers are in good life, road-bed well ditched, roadway neat and clean and all fencing strongly maintained. The flood of last June damaged the road considerably in the valley of Post creek, which has been completely repaired. All the depots have been newly painted and each was found in neat and orderly condition. Dresden and Rock Stream especially so. The freshet undermined in part the north abutment and north pier of bridge over Chemung river, but as yet not a check has taken place in the masonry. They will be repaired at once.

Penn Yan Branch,

A branch road from Dresden to Penn Yan and to foot of Keuka lake, about seven and a half miles in length. The extension, one mile in length, to foot of lake, was for the purpose of obtaining ice. No passenger trains are run beyond Penn Yan depot. Other than this extension, the branch is in same condition as when last inspected. The track is well kept up, sleepers in good life and surface fairly maintained. Only shuttle trains are run, and at a low rate of speed.

Corning, Cowanesque and Antrim Division,

From Corning to Pennsylvania State line, near Laurenceville. A single-track road about sixteen miles in length. This road lies mostly in the Tioga valley, where the most severe rainfall occurred last June. Very much of the road-bed was washed away or covered with gravel from hill-side streams. At time of inspection, the repairs of road-bed and openings were still in progress. At one point where a hill-side water-course ran under the track, through a twelve-foot span arch culvert, a channel was scoured out by the water, which will now have a truss bridge of fifty-five feet span. The superstructure is in good condition sleepers are in strong life and roadway in fair order. A number of waterways which were damaged and an occasional abutment washed away have yet to be repaired. There are a few plate-girders or I beams and a number of timber-stringers, all in as good condition as can be until masonry under some of them can be rebuilt. The depots are the same as before reported. The one at Fresno has yet to recover from the inundation and overflow of gravel. At the grade crossing of the Erie road, at Corning, a Saxby & Farmer interlocking switch and signal device is now used, and a nest of side tracks south of the Erie railroad has recently been laid. The brick passenger depot and general offices of the company at Corning is very nicely kept and the waiting-room clean and well furnished. Generally the property is thoroughly maintained.

FITCHBURG RAILROAD.

Since the last inspection of the railroads in New York now operated by the Fitchburg Railroad Company, made in 1887, about the time it took possession, the change and improvement in permanent way have been radical. The total length of roads operated in New York is 115 miles, all of which is single-track, except four and a-half miles of second track between Reynolds and Mechanicville. Between Johnsonville and Vermont State line, a distance of sixteen miles, the Troy and Boston, and the Boston, Hoosac Tunnel and Western railroads are substantially parallel and are operated together as a double-track road.

Main Line,

Between Troy and Vermont State line, on what was the Troy and Boston railroad, a number of new iron bridges have been erected. South of Lansingburgh over a highway is a thirty-foot span plate-girder through, where was a defective Howe truss. Over Hoosac river, east of Hoosick junction, where was a long span deck Howe truss in poor condition, a pier has been built and a Pratt pin-truss of 100 feet and plate-girder of fifty-three spans erected. At Hoosick Falls, over the same stream, where was a Howe truss, there are now two spans of 120 feet each Pratt pin through trusses. All these bridges have strong floors of eight by ten inches yellow pine ties and guard-rails. The span of Howe truss in New York at Vermont line, and span of same east of Petersburgh junction, have been reinforced by additional strands in lower chords, and additional truss rods. The main braces have also been reinforced by filling in between them with timber and tying the counterbraces into this filling. These bridges are housed, and will be used one more year. Several short spans have been changed from timber girders to rolled beams. The trestle-bridge over highway at Johnsonville has been thoroughly repaired, and has a new floor. All openings have a good floor system. Two trestles have been filled and culverts built for drainage. The entire road-bed has been rebalasted and embankments well-filled out. New seventy-six-pounds-per-yard steel rail has been laid between Troy and Johnsonville, with the Fisher joint-rail connections, a distance of sixteen miles. Nearly all the sleepers have been renewed and the line and surface of track is finely adjusted. New wire fences of six strands and large-size posts have been built on both sides of the road, nearly its whole length. The roadway has been entirely cleaned of underbrush and weeds its full width and presents a neat appearance. The road-bed has been thoroughly ditched. Many of the cattle-guards have been rebuilt and quite a number filled. An iron turn-table, with cut-stone pit, has been put in at Johnsonville; also, a new water-tank and steam-pump. A new depot has been erected at Hoosick Falls. Nothing of moment has been done to the other passenger depots. Those that are suitable for remodeling will be and those not of sufficient value to be in part retained, will be replaced with new buildings. That part of the main line, formerly the Boston, Hoosac Tunnel and Western railroad, between Vermont line and Rotterdam junction, is in much better maintenance than when absorbed by the Fitchburg company. The truss bridges are all of iron and with one exception were of sufficient strength. Over Tomhannock river, were three sixty-four-foot spans of lattice-girders. The center-span has been removed and plate-girders substituted. The span removed was utilized, by placing one of its trusses between those of the end spans, making a three-truss-deck lattice. A new floor has been laid and the bridge is now of ample strength. West of Reynolds, is a new I beam-girder for both tracks. West of Mechanicville, was a number of iron-girders under which the bearing stone in abutments became broken and crushed. New granite blocks have been put in at all such places, also wherever iron-girders have been substituted for wood, and the masonry bearings were insufficient. The long double-track deck-bridge over the Hudson river at Mechanicville needs to be painted, otherwise it is in good order. Considerable new steel-rail of seventy-six pounds per yard, and some partly worn, has been placed in the superstructure. The fences have been largely rebuilt, road-bed ballasted, the general strength of ties increased by liberal renewals and the track thoroughly adjusted. At Rotterdam junction a branch and canal dock have been built, and in connection with the railroad company, a large elevator erected. A freight-transfer shed has also been built at the junction.

The brick depot at Schakhticoke, and the frame depot at Valley Falls, have been renovated, and are now in good order and well furnished. The depot at Eagle Bridge was recently burned, and temporary accommodations are provided. All other stations have very good depots, some of which would be more comfortable, if neatly kept.

Troy and Bennington Branch,

State line to Hoosick junction, five miles in the State of New York. No change of moment has been made in the maintenance of this branch. The truss-bridging is the same as before reported. The Burnett bridge, a through Howe truss, is in same condition, and should be renewed or reinforced. Sixty thousand pounds net-load coal cars are run over it. A few new ties, some ballasting and better track-adjustment constitute the betterments.

Schuylerville Branch,

From Schuylerville junction to Schuylerville, eight miles in length, laid with steel rails. There is no masonry. All the openings are pile and trestle-bridges of one or more bays. These have been rebuilt in yellow pine timber and oak piles. Each has a strong floor. Of the structures, nine are pile-bridges from one to thirty-two bays each, and a trestle of about seventy-five bays, aggregating 2,400 feet in length. The rail is in good condition and nearly all the sleepers have been renewed. At one point the grade has been reduced by deepening cuttings and raising embankments. There yet remains the road-bed to be ballasted and track properly adjusted. All the roadway has been cleaned of brush and looks very orderly. The depot at Schuylerville is the same as before reported and is neatly kept.

Saratoga Branch,

From Saratoga junction, near Mechanicville, to Saratoga, a distance of seventeen and a half miles, all laid with steel rails. Seven short single-span waterways, with trestle-girders, have been replaced with I beams, and fourteen, from twelve to eighteen feet wide, have been changed to plate-girders. These constitute all the openings of moment on this branch. Where masonry was unsuitable to receive the iron work, it has been relaid and granite blocks provided for girder-bearings. All have strong floors. There is no truss, and but one pile and one trestle-bridge. The pile bridge situated on a curve at outlet of Saratoga lake has been rebuilt and part of it filled. At an under-highway and stream-crossing there are eighteen bays of newly-built yellow pine trestle, of strong design, the sills resting on masonry piers. The sleepers on this branch have also been renewed to a great extent, the rail is in good order and track well adjusted. The fences are generally well maintained, ditches fully developed in the clay cuttings, which have been so trouble-some, and the roadway cleared of brush and weeds out to its boundary. The depot at Saratoga is neatly kept, is in good order and well furnished. The other depots are of little moment and seldom used.

In general, as at first stated, the improvements in permanent way have been marked. Within the past two years 175,000 ties have been renewed, forty-four miles of new and twelve miles of second-hand steel rails laid, forty miles of road-bed ballasted, the whole superstructure relined and surfaced and 120 miles wire fencing built. The passenger equipment has been improved in the same ratio. New cars, or those of the Fitchburg road, have nearly replaced those formerly used. The motive power has been increased, and a better grade of engines employed. Some of the best of the old equipment remains, but very little compared with all the cars and engines now running.

FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD.

The last inspection of this property was in 1887, a report of which will be found on page 160 of the Commissioners' report for that year. During the past two years the improvement in permanent way and station buildings has been continued. The rail is in good condition. About one mile of additional steel has been laid, leaving about twelve and a half miles of iron rail in the superstructure at the northerly end, where the train service is least. A number of the slopes of cuttings have slid down, filling the side ditches, which had not been reopened at time of inspection. The roadway is neatly kept, and fences well maintained. A number of miles of new five-strand wire fence, with a board at top of posts have been built. The sleepers are mostly in strong life, and sufficient renewals have been made for this season. Considerable reballasting has been done, particularly on the northerly end. The adjustment of track, south of Gloversville is only fair. North of Gloversville it is more workmanlike. Each of the truss-bridges and small openings in road-bed were examined. A new lattice bridge has been erected over a stream, near Fonda, where was a Queen truss. A recent freshet washed away the north abutment. A pier has been built in its place and a new abutment erected further north, giving additional waterway. An I beam deck-girder spans this addition. Over the same stream is a 100-foot span deck lattice in good order. The bridge seats, which were broken, have been temporarily secured. North of Johnstown is an opening of forty feet, spanned by a temporary trestle. One abutment was undermined and plate-girder washed 100 feet down the stream. A new abutment is being built and the plate-girder will be replaced. A trestle of three bays, in poor condition, is to be filled, after providing for drainage. Stone are at hand for abutments, and opening will be spanned with a plate-girder. Another similar trestle is in good condition. Two separate openings have I beam girders. North of Mayville is a trestle of three bays, newly rebuilt. Two openings, one of twenty-two and one of twenty-four feet have truss-girders made of iron railroad bars. There are four bays of waterway, of sixteen-foot span, on crib abutments and piers. They have yellow pine stringers and hemlock bents, all in strong life. The remaining openings, ten in number, from six to twelve feet wide, have girders made of T rails. All of these have good masonry abutments, and each opening has a strong floor. At Johnstown and Gloversville new brick depots of fine design and construction have been

erected. They are each 150 feet long and about thirty-five feet wide. They have a covered platform 225 feet long in front and a neat carriage canopy in the rear. The entire interior is finished in native woods, highly polished. Steam-heating, water-closets, lavatory and private rooms for ladies are all provided. The other stations are as before reported, and all are neatly kept and in good repair.

GRAND TRUNK RAILWAY.

The Grand Trunk Railway Company of Canada, operate the United States and Canada railroad, between the international boundary, near Fort Covington and Massena Springs, a distance of about twenty-two and one-half miles. It also owns six-tenths of a mile at the International bridge, Buffalo, and one and two-tenths miles between the international boundary and Rouse's Point.

United States and Canada.

This is a new railroad, not completed at this time (September twenty-third). It has been in operation between one and two years, at a low speed, the track being at sub-grade and irregular. The ballasting is now being done, with several miles finished and track very well adjusted. The line runs through a level country, with little curvature and light grades. The road-bed is mostly embankment, from one to five feet above the general surface. All the roadway is clean and well fenced with five-strand buckthorn wire and large cedar posts. Gates are used at farm-crossings. At grade highway-crossings, substantial warning signs extend over the traveled road. There are three through Howe trusses, one of which over St. Regis river, is of two 100-foot spans, resting on excellent cut-stone abutments. West of this structure there is a sixty-foot span with heavy abutments of hemlock docking. West of Fort Covington is a seventy-two-foot span of like construction. There is also a thirty-foot span Queen truss west of Bombay, with docking support of hemlock timber. These trusses are of pine and have good floors. There are about forty-seven minor openings for waterways, from four to ten feet in width. These are constructed of pine and hemlock. The abutments are hemlock docking of ten by ten-inch timber, tied into embankment. The stringers are, one under each rail of pine, twelve inches square, and one under ends of ties. The ties are pine, twelve feet in length, eight by seven inches section, closely spaced, with guard-rails of same size and timber. Excepting the crossing at Grass river, there is no masonry structure in the road. There is a trestle over Duck creek of ten bays, and near Fort Covington a sixteen-bay pile bridge, both strongly built, and have a substantial pine floor. The superstructure is all steel rail secured with fish-plates. All the switches are of the stub pattern, without distant signals, although the track was laid after the passage of the Safety Act of 1884. They have high switch-stands showing signals over the tops of cars. The sleepers are of hemlock, and at subgrade widely spaced. Additional ties are added as the track is ballasted. At Massena Springs is a new frame depot, used jointly with the Rome, Watertown and Ogdensburg railroad. At Helena, Bombay and Fort Covington are new frame station-buildings, neatly kept and well furnished.

GREENWICH AND JOHNSONVILLE RAILROAD.

The last inspection of this property was made in 1887, since which time no change has occurred. It is about fifteen miles in length, single track, laid with steel rail except about one mile of iron with chair connections. The suggestions made in last report regarding trestles and openings have been complied with. Each opening in road-bed, the two deck Howe trusses, two Queen trusses and one girder-rod truss were examined. There are twenty-five trestle-bridges for waterways, from one to six bays each, aggregating 475 feet in length, and fourteen waterways with masonry abutments from five to twenty feet in width, aggregating 165 feet. One of these has four bays with three bents, one of two bents and two with one bent. The coal-pocket trestle at Greenwich has been put in good condition. There is a Queen truss of thirty-two feet, and one of eighteen-foot spans. One opening of sixteen feet has I beam girders, and at three others I beams are at hand to go in. There is also one girder-rod truss of nineteen-foot span. All have good floors except seven, which have three inch plank for ties. A stronger floor for these is suggested. The masonry abutments are generally of good character of work, but at several openings, they are defective, and should be rebuilt. A few of the bents are in poor condition, and renewals are needed. As most of these openings are low, it would not be burdensome to construct masonry at all of them, thus reducing the danger from fire. The deck Howe truss of three spans over Hoosac river is in the same condition before reported, except there are additional truss-logs. Three deck-spans of similar truss over the Battunkill have a new strand in each lower chord. These trusses are well covered, and appear in good life. Two of them have pile bents under second panel point, and under first panel point of the shorter span. As a whole, the openings are in better order than when last inspected, yet masonry abutments, where practical, and larger stringers on a few of them, are desirable. The sleepers, as a whole, are in very good life, but at some points larger renewals are necessary. On the northerly end of the road there is a fair line and surface of track. The southerly part has only an ordinary track adjustment. The station buildings at Johnsonville and Greenwich are in good order. The way stations are flagging points, and have ordinary accommodations.

KAATERSKILL RAILROAD.

(Three feet gauge.)

An inspection of this road was made the ninth of May, which was deemed inopportune, as all the bridges were being rebuilt; and July second another examination was given, from which the following report is made: The road is only operated during the summer and early fall. Each spring the cuttings and side-ditches are cleaned, the necessary renewal of sleepers, resurfacing and lining of track and other like work, done, to put the road in good order for its summer work. This spring nearly all the truss and pile and trestle-bridging has been renewed in yellow pine, and masonry abutments built at nearly all important structures. The soil through which the road is built is largely clay, and in bottoms of cuttings quicksand is occasionally found. This year the repair of road-bed was unusually large, owing to the long-continued spring rains. At time of last inspection this work had all been accomplished, and the road-bed and superstructure found in very good condition. Wildcat creek trestle has been partly filled, masonry abutments and yellow pine trestle work constructed. All the bridges were designed of sufficient strength to carry standard-gauge equipment. At the crossing of Schoharie creek is a new deck Howe truss of 100-feet-span, on newly built abutments; also eight bays of trestle approaches, all of yellow pine. A trestle of ten bays has been filled. Crossing Rogers' creek is a twenty-feet-span waterway on new masonry abutments. The stringers are three eight by sixteen inches section, and it has a good floor, all of yellow pine. One abutment failed and a strong bent now temporarily takes its place. Where was four bays of twenty-five-foot-span trestle waterway is now two twenty-feet spans with masonry abutments and pier. The stringers and floor are of yellow pine same in size and number as at Rogers' creek. East of Tannersville are two old single-span trestles of spruce timber, sixteen and twenty feet in width, still in fair life. At an under-highway-crossing is a twenty-feet span for roadway, and two ten-feet span approaches at each end. This bridge is hemlock only in fair life, and will soon require to be renewed. A twenty-feet-span pile waterway, eight feet high, has two yellow pine stringers, twelve by fourteen inches on one side and one yellow pine and one spruce, same size on the other side. The spruce strand is unround and a new one is suggested. A ten-feet-span pile waterway, west of Haines' Corners, is a new yellow pine trestle of seventeen bays, forty-five feet high. It has abutments of masonry and piers under each bent, taking the place of a spruce trestle. East of same point is a five-bay trestle of twenty feet clear spans on a curve. The end bays have two sixteen by eighteen inches yellow pine stringers. The intermediate spans are of hemlock and spruce of less size, and have a bent at the center of bays. It is suggested that yellow pine be used the same as on the end bents. At Laurel house there is a trestle of eleven bays forty feet high. There is one masonry abutment and sills of bents have good masonry piers under them. The other end and one span beyond is of old spruce timber, and is to be filled and abutment built. All openings have a strong flooring of ties and guard-rails. There is considerable five strand wire-fencing, and the roadway is cleared of brush out to its boundaries. The suggestions above made, that yellow pine be substituted for the spruce and hemlock now in the bridges are made, more that the use of better and more reliable material may be continued, than from fear of the immediate failure of the timber now in these structures. The passenger stations are as before reported. They are well maintained and neatly kept.

LACKAWANNA AND SOUTHWESTERN RAILROAD.

Main Line,

From Belfast junction to Perkinsville, a distance of forty-one miles, single track laid with steel rails, angle-bar connections and point switches out of main line. For a number of months prior to August 19th, 1889, no trains were run over this road except those of the Rochester, Hornellsville and Lackawanna Company, between Hornellsville junction and Perkinsville, a distance of about eleven miles. The leased line between Swain and Nunda junction, and the narrow-gauge division between Angelica and Olean are not in operation. The main line between Belfast junction and Angelica was not in use at time of this inspection, but repairs of track and bridges were in progress, preparatory to train service. For a few miles east of Angelica, in the valley of Angelica creek, the freshet of June first ('89) did considerable damage to the trestle-bridges. Temporary repairs have been made and a daily train east and west, between Angelica and Perkinsville, has been in operation as above stated. A careful inspection was made of entire road, except the unused narrow-gauge road and the leased line between Swain and Nunda junction. There is considerable pile, trestle and truss-bridging in various stages of physical life and condition. On the main line there are eighty-one separate openings of pile and trestle-bridges, from one to sixty-six bays each, aggregating 7,650 feet in length and from four to sixty-nine feet in height; twenty-eight of these are single-span openings, less than fifteen feet in width. The remainder are fifteen feet clear spans, having two seven by sixteen inches pine stringers and closely-tied floors. Fifteen of the short spans have the rail directly upon the stringers. More or less repair is needed on a majority of these and a strong floor on all. Crossing Angelica creek are six pile bridges, each considerably damaged by the freshet referred to. One or more piles were washed out, and temporary posts carry the truss at present. A large amount of flood-wood is lodged against the upper side of these bridges, which should be removed far enough away to avoid danger from fire. As a whole, the pile and trestle-bridges of two and more spans are in fair life; a few need partial repair. There are six Howe truss-bridges on main line and an iron viaduct over Rock stream 700 feet in length and 240 feet extreme height. The former are in very good condition and have good masonry substructures. Black

and White creek bridges, however, need part of a strand in each lower chord renewed. A number of the masonry pedestals of the Rock stream viaduct require new coping, and one pedestal, in the bed of stream on shale rock, has become shattered and in part undermined. The masonry has been inclosed with oak plank, bound around with iron and rapped around the bottom. It is suggested that new masonry be built and the foundation carried deep into the shale rock to prevent further undermining. A slight settlement of this pedestal would throw the top chords out of line, and a heavy freshet and ice-flow might undermine the present foundation. The iron-work is considerably rusted, and should be thoroughly painted after scraping off the rust scale. The superstructure is in fair condition except that a large renewal of ties is necessary. The work of renewing sleepers with hemlock was progressing at time of inspection. The grass and weeds had not been cut, and where the line passes through timber the brush is high and close to side of track. It is suggested that the brush at least be cleared to full width of the roadway. The fencing is in very good order. A number of highway caution signs are down and should be replaced. Nearly all the road-bed ditches need cleaning out. The depots at Angelica, Canaseraga, Rock Stream and Perkinsville are same as reported in 1886, when the last inspection was made.

LAKE CHAMPLAIN AND MORIAH RAILROAD,

A single-track standard-gauge railroad extending from Port Henry to Mineville, a distance of seven and three-quarter miles. The track is laid with steel-rails fish-plate fastenings and has stub-switches out of main line. The last inspection of this property was in 1880, since which no particular changes have been made. For description of grade, alignment and other like details, reference is made to the previous report, to be found in volume first of the Commissioners' report, for that year, page 208. The two spans of through low lattice over street in Port Henry are in good order. A ten-foot span waterway has good masonry abutments and two yellow pine stringers, each twelve inches square, and a strong floor. An under-highway-crossing of fifteen-foot span has one new abutment. The girders are yellow pine of ample size. It has stringers but no guard-rails. A small waterway has poor masonry. Over a stream is a seventy-foot span through lattice on good masonry abutments. The trusses and masonry are in good condition. The ties are six by six inches section spaced fifteen inches and in fair life, but a stronger floor is suggested. A twelve-foot chord arch culvert has been recently built and a trestle filled. Near Mineville is a six-foot span waterway in good order. There are several cattle-guards, each in good condition and well floored. In the main line opposite the repair shops is an ash pit twelve feet long and about thirty feet from a stub-switch. It would be in the direction of safety if this pit was placed in a siding. The fences are well kept up, roadway clean and orderly and all highway caution signs in place. The superstructure is very well maintained, large sleepers are used and the track is in good adjustment. The property is in good physical condition generally. The grades are excessive and require a strong road-bed and superstructure to be safely operated. Very few passengers are carried. The transportation of iron ore is the only business and for this the road was constructed.

LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY.

[Since this inspection was made the company informs the Board that a new arch viaduct over West Canada Way Creek has been completed and is in use.—Board of R. R. Com'rs.]

This is a double-track road, laid with sixty-six and seventy-one pounds per yard steel rails, with angle-bar connections and all split switches out of main line. The angle-bars on the seventy-one pound rail are forty-eight inches in length and six bolts to each joint. No change has been made in the outline of this property, but its permanent way has been materially improved and further like work was in progress. The road-bed crossing Buffalo creek flats was being raised one or two feet; west of Lake View a light sag in grade has been raised up to uniform plane; west of Derby a sag has been raised three feet; west of Irving, at one point, the road-bed was being raised four feet in order to remove a depression, and a like change was being made west of Ripley. To accomplish these changes abutments were being raised, culverts lengthened and a few openings were being changed to box culverts. The timber bridging and a number of truss bridges have been rebuilt or strengthened. At a number of points the masonry at openings was being relaid and at others had recently been rebuilt. A large amount of ballasting has been done. The superstructure is in excellent condition. Larger ties are used and all the sleepers are in good life. Care is taken with the drainage of road-bed at all points. During the past two years seventy-five short-span openings have been renewed with large pine stringers and a strong floor, well guard-railed on each opening. There are no open floors on this line in New York at this time. Each of these short spans have excellent masonry abutments. The trestle waterways along the low, flat lands immediately west of Buffalo have been rebuilt, and in some cases filled up. These are now in very strong condition and have inside T rail-guards eight inches inside of main rail. At the crossing of Buffalo creek is a two-truss through Pratt pin-bridge in excellent condition. Over Smoke creek is a three-truss plate-girder deck of sixty-foot span, in good order. At Black creek is a deck-plate-girder, of twenty-four-foot span. Over Big Sister's creek in north track is a 150-foot span, triple intersected lattice-deck bridge, and in south track are two fifty-five-foot chord arch culverts. The grade at this point has been raised three feet. The lattice bridge has a pier at center which is to be raised with an iron bent to the new elevation, and the truss is to be cut in two, forming two spans of about seventy-three feet each. Over arches and on floor of truss are inside T rail-guards. A new bridge of strong construction has recently been erected over

Cattaraugus creek. It consists of three 146-foot spans of through Pratt pin-trusses designed for a rolling load of 4,000 pounds per foot. Over floodway near same point are four forty-five and one sixty-four-foot spans of deck-plate-girders. Both structures have excellent masonry abutments and piers, all in good condition and inside T rail-guards. Over highway at Silver creek is a twenty-foot span plate deck-girder. At Mud creek is a lattice deck whose trusses are light for weight imposed. These trusses are to be doubled. Over Big Canadaway is an eighty-foot span deck-lattice, and at Little Canadaway a fifty-foot span similar truss in north track, and a thirty-six feet chord and culvert in south track. The abutments under the trusses are to be rebuilt. At Ripley are two spans of twenty-foot plate-girder deck-bridges over streets. A sixteen-foot span arch culvert at Brockton, having a fracture in its sheeting near the south end has been repaired by lining the arch with brick masonry for eleven feet in length at point of fracture. Over Eighteen Mile creek is a full-centered arch culvert of eighty-feet chord. Commencing at the spring line near the south end a crack in the arch has occurred, widening to four inches at crown of arch. This structure is to be unloaded and arch repaired. There are several other arch culverts of wide spans, each of which are in good order; one askew to center line has spiral sheeting. All the masonry on this road is of the best character of work. No changes have been made in the passenger stations since the report of 1887. At Dunkirk a new union depot is being erected in place of the train-house and waiting-room so long in use. It is to be without a train-shed, and the Lake Shore road will have both its main passenger tracks solely for its own use. As now arranged these tracks cross into those of the Erie road. Each of the depots were examined and all found in the commendable order before reported.

LEBANON SPRINGS RAILROAD.

Since the previous inspection of the entire line of this road, made in 1887, there appears at this present inspection to be some improvement in the physical condition. It is yet much below what is required for a thoroughly maintained railroad. The rail has been improved by substituting partly worn steel from an adjoining road for the chair-iron, until there remains but twelve miles of the latter in the track. The sleepers are about in the same average life as before reported. There are yet far too many decayed ties, often two or three in continuity, and it is suggested that especial effort be now made to largely increase the volume of renewals. The track adjustment is very ordinary and unsuited for the ordinary speed of trains; on some portions of the road, however, there is an improved line and surface. To entirely obviate this defect the sleepers must be in much better condition, and cuttings more thoroughly drained. A large part of road-bed has been rebalasted within the past three years, leaving less than one-third of the entire road to be thus treated. The road-bed is of ample width, and has scarcely any depressions in grade; in these respects the road was well constructed. It is also essential that the most worn chair-iron be replaced, and that the overworn fish-plate iron rail be renewed. The fencing is in about the same condition reported in 1887. It should be better maintained to prevent trespass of farm stock and consequent danger. The cutting of weeds and brush has been neglected. Of the openings in road-bed, large and small, there has been improvement. The Brainard trestle, 800 feet in length, has been entirely rebuilt and in a thorough manner. Steel rails have been laid across this structure. At the crossing of Chatham creek, near that place (bridge No. 1), is the new deck pin two-span bridge before reported. It is in good order, but there are a number of badly worn iron rails on it, which should be replaced. South of West Lebanon (No. 7), where was an old Howe truss, is now a good iron lattice bridge ninety-two feet span resting upon stone masonry abutments. The pin connected through iron bridges north of West Lebanon (No. 8) and south of Stephentown (No. 13) are in good order, with the exception that the latter appears out of adjustment in its long skew abutment panels, particularly its counter-bracing. A reference to the design and strain sheets of this truss is respectfully suggested. These bridges, with five wooden girder-rod trusses of twenty-six-foot spans, where were Queen trusses, constitute all the new trusses of the past three years. There are a number of low through Howe trusses, all of which have been reinforced with additional truss rods, and physically are generally in fair condition. These bridges are as follows: No. 3, forty-foot span, has new lower chords. No. 4, forty-two-foot span, is in fair life of timber, but requires a few new floor beams and a renewal of track-stringers. No. 11, about forty-foot span, is in fair life of timber; it rests on pile abutments, inside toe of end braces. Masonry abutments were intended but have not been built. No. 15, sixty-eight-foot span; lower chords two, 6x12 inches, and center chord 8x12. The inside strand of east truss at center was found almost completely rotted off. A bent was to be at once put under the defective truss. No. 23, thirty-two-foot span, rests on bent at center. The timber is of little strength from age, and a new bridge is suggested, as bent is liable to be disturbed by freshets. No. 27, sixty-eight-foot span is yet in fair life, but requires a few new floor beams. No. 32, forty-four-foot span, is in very good order. These bridges have trusses of spruce timber, and generally are well housed. The floor beams and truss members underneath are exposed and quickly decay; this was the trouble with bridge No. 15. The smaller openings, such as a few bays of pile and trestle bridging, and single spans of water-ways and farm-crossings, are mostly in fair life of timber. Renewals, however, appear necessary in a number of instances. No. 2, five bays of trestle work should have one new cap and one stringer replaced. No. 5, six bays of pile bridge, and No. 6, a similar structure, requires in part renewals. South of New Lebanon are two openings of eleven and eight feet clear spans. One has old T rails, three in number, for each girder. Under strain these rails must deflect too much; rails are worn and weight per yard uncertain. The other has too old stringers and should be renewed. No. 20, similar to the last, wants same renewal. North of New Berlin is an eleven-foot span opening with too light stringers. No. 31, ten-foot span, wants new ties. Between the crossing of Hoosac river and Petersburg Junction are two pile bridges.

These structures should be thoroughly overhauled, all timber carefully examined and renewals made when necessary. The few openings between the junction and Vermont State line have all been rebuilt in the past three years. At the time of the last inspection it was stated to be the purpose of those operating the road to at once entirely renew all the small openings and place on each a good floor system. It is to be regretted that this has not all been done; a few have been so treated, but the large majority have only been partly repaired, and life of timber is doubtful. The station buildings are in better condition than noted in former inspections, and may be said to be, all of them, in reasonable good order.

LEHIGH AND HUDSON RIVER RAILROAD.

The physical condition of this road remains about the same as reported in 1887. A few of the small openings have been renewed and the adjustment of track has been somewhat improved. A careful examination was made of all structures, with the following results: Commencing at Greycourt, the first opening is a ten-foot span, under-farm-crossing, in good order. Two other similar openings are in like condition. West of East Chester, is an eight-foot opening, only in fair life of stringers, and a renewal is suggested. The masonry in nearly all the small openings is of poor character. It is laid dry, and quality of much of the stone is shelly and disintegrating. The stones appear insufficient to stand the shock of trains. An eight-foot opening has good stringers, and all east of Warwick have a fair floor system. West of Sugar Loaf is a ten-foot span waterway, with I beam stringers and a new floor. This is followed by five separate waterways and cattle-passes of about five-foot spans, in good life of stringers. A trestle of five spans of ten feet each, over a stream, is quite old, and a renewal is desirable. A five-foot span waterway following is quite new. Two spans of ten feet each, having masonry abutments and pier, are in good order. West of Stone Bridge are two cattle-passes in good order. A seventy-foot span, through low lattice truss, is in good condition, well painted, and has a full standard floor with guard-posts. This is followed by a ten-foot span waterway in good condition, and another seventy-foot span lattice bridge, similar to the one before mentioned. A ten-foot span waterway, near Warwick, is only in fair condition. West of Warwick is a seventy-foot span, pin connected low Pratt truss, which has broken pedestal bearings. Oak blocks are being substituted. West of this opening, to the State line, are twelve waterways and cattle-passes, from five to fourteen-foot spans, most of which have stringers in use about nine years. Some of these require renewals, and it is suggested that they be thoroughly inspected and proper renewals made. A standard floor is also desirable on these openings. Some of the masonry in these openings is poor and should be rebuilt. A fourteen-foot span has been rebuilt and has competent yellow pine stringers and standard floor. In same locality there is a low through Pratt truss in good order, with a full standard floor and guard-posts. Generally the track is well tied, and the necessary renewals were being made. The fencing is fairly kept up and renewals with wire made as required. Each of the depot buildings were examined. All of them have been painted since the previous inspection. At Greycourt, an excellent frame depot with covered platform has been erected, and is well arranged for a junction station. East Chester has a frame depot in fair order. At Lake there is a small frame depot, the inside of which requires renovation. Stone Bridge depot needs overhauling inside. The depot at Warwick is in very good order and neatly kept. It is rather low for the track, and is to be raised and some needed repairs made. The station at New Milford was recently burned, and a car is used for a waiting-room. In general, the road is in fair condition, and a comparatively light expenditure would place the property throughout in first-class order.

LEHIGH VALLEY RAILROAD,

Buffalo Division,

A double-track road branching out of the New York, Lake Erie and Western at Lancaster, and extending to the corner of Washington and Scott streets in Buffalo city, a distance of twelve miles. A branch out of the Buffalo Creek road leading to coal pockets and slips out of the city ship canal, on territory known as the Tift farm, has a large amount of sidings which were not particularly examined. The main line from William street junction with the Erie road, to Lancaster, seven and one-half miles, was also omitted, it being in little use and without bridging of moment. Between William and Washington streets, Buffalo, the road is for the greater part elevated over the streets and railroads. At William street near the eastern city line, the grade is at the surface of ground and connection is made with the Erie, whose tracks the company uses to Waverly, near Pennsylvania State line. The twelve miles of line owned by the Lehigh Valley company, are used only for freight traffic, and seven miles of this east of William street are not in use. Passenger trains use the Erie depot on Exchange street and Erie tracks to Waverly. The super-structure is laid with seventy-pounds-per-yard steel rail, alternate suspended joints and long angle-bar connections, and the surface and line of track is very workmanlike. The sleepers are of oak, large in size and closely spaced, and road-bed ballasted with cinders. Point-switches and spring-rail crossing-plates are used. Commencing at William street, westerly, the grade rises above the surface of the ground till it reaches a point about twenty-two feet, and keeps that elevation until Alabama street is crossed. It then descends to the surface at Louisiana street and continues on the surface until the end of the line, at Washington street. At all streets and railroad lines where grade is elevated are strong iron bridges on substantial masonry. When first constructed the interval of elevated road was piling; recently this has all been filled, and is now a firm road-bed of ample width. The bridges over streets and railroads are as follows: Over Clinton street a 130-foot span, two-truss Pratt pin-through bridge, with strong floor and inside T rail-guards. Over Delaware, Lackawanna and Western, and Western New York and Pennsylvania railroads, is a two-truss Pratt pin-

through of 150-foot span, a plate-girder deck of sixty-foot span, and a two-truss Pratt pin-through bridge of 100-foot span. The west abutment of west truss has settled about ten inches, caused by digging a sewer too close to its foundation. The truss is well cared for and abutment will be rebuilt at an early day. Over Seneca street is a two-truss through Pratt pin bridge of 125-foot span. Over Dole street is a sixty-foot span plate-girder through. Over Babcock, Orlando, Maurice, Walter and Peabody streets are sixty-foot spans of deck-plate-girders. At the crossing over the Buffalo Creek railroad, the Western New York and Pennsylvania railroad, the New York, Chicago and St. Louis railroad, and Selkirk street, all are spanned with a continuous bridge of four eighty-foot spans of two trusses Pratt pin and a sixty-foot span deck-plate-girder. Over Smith street is a sixty-foot span deck-plate-girder, and a twenty-foot chord arch culvert for passage under to Erie shops. Over Ohio street branch of Erie railroad is a two-truss, eighty-foot span Pratt pin-through bridge. Crossing Van Rensselaer street is a sixty-foot span deck-plate-girder. At the crossing of Hickox and Scott streets, and the Lake Shore and Michigan Southern railroad are five sixty-foot span deck-plate-girders and two 120-foot spans of two-truss through Pratt pin-bridge. At Red Jacket street is a sixty-foot span deck-plate-girder. At Hamburg street is a seventy-foot span of same. Over Alabama street is a viaduct sixty feet in length. Iron bents are at the curb line of the street, and plate-girder deck-bridges over sidewalks and plate-girder through, over roadway. Over a tramway is a thirty-foot span plate-girder through, and over a canal slip is a sixty-foot span similar plate girder. Over Market street canal slip is a sixty-foot span through plate-girder. These bridges are all of the best construction and aggregate about one-half mile in length. A freight depot is located at Washington street, and at William street junction are offices, nests of sidewalks, engine-houses and coal-dumps. There are no passenger depots.

Geneva, Ithaca and Sayre Division,

A single track all laid with steel rail between Pennsylvania State line and Geneva, a distance of seventy-five miles: the Cayuga branch, from Ithaca to Cayuga, thirty-eight and a half miles; and the Willard branch, from Hart's Corners to State farm, four miles, all of which, except the Willard branch, were carefully inspected. Between the Pennsylvania State line and Geneva there are sixty openings from eight to fourteen feet wide, and one to nine bays each of pile and trestle-bridges, nearly all of which have masonry abutments; their aggregate length is 1,025 feet. Of these there is an eighty-foot span, quite old, which is to be piped and filled. A number of the short spans require new masonry. Two or three have old stringers, and a large number have new masonry abutments, constructed since last inspection. A girder-rod-truss lift-bridge over canal slip at Ithaca has good masonry abutments, and the bridge is in strong condition. Between same points are twelve plate-girder-deck and through bridges, from one to nine bays each aggregating 810 feet in length. Some of them are newly built, and all are in good condition and rest on substantial masonry. There are seven iron trusses, from eighty to 160 feet each, aggregating 740 feet in length, each in good condition in every respect. All the openings of every nature have strong floors of high standard, and the long floors have inside T rail-guards. A few of the short single spans require their abutments rebuilt. Three arch culverts have been constructed and openings filled since previous inspection. The through trusses have guard-posts. Nearly all the cattle-guards have been filled and slats substituted. The road-bed is well ballasted, sleepers are in strong life, and the track throughout is in excellent line and surface. Fences are well maintained, gates at all farm-crossings and cross-fences at highways are neatly whitewashed. The roadway is very neatly kept. It would be well to clean off the rock slopes north of Lockwood of loose material and stumps. Each of the depots were examined. At East Waverly is a frame structure with two waiting-rooms. They are dingy and want repair. The depot at Spencer is in excellent condition and well furnished. Summit is a new station, small, but very comfortable and well furnished. Newfield depot has lately been overhauled, and is a very neat station. The others are the same as before reported.

Cayuga Branch.

This branch line follows closely the shore of Cayuga lake for nearly its entire length. It is single track, laid with steel rail. The road-bed is fairly ballasted, sleepers are in fair condition, and track very well adjusted. There are a number of openings for waterways, of which eight are pile and trestle-bridges aggregating 305 feet in length, and twenty-five single openings, from eight to twelve feet wide, with masonry abutments and timber girders. There are eight plate-girders, either deck or through, which have good masonry substructures. There is also one sixty and one eighty-foot Pratt pin-through trusses and a 100-foot combination Pratt pin-through truss, which was being repaired. There are one I beam deck and two girder-rod trusses of twelve-foot spans. All these openings are in very good condition and have good floors, except a few short spans with plank ties, which should have a competent flooring. Each of the depots were examined. Lake Ridge depot has been much improved inside and out. At Aurora a fine new frame depot, well built and furnished, has just been completed. The depot at Union Springs has lately been rebuilt and is now a really good structure. No other changes have been made since the last inspection. As a whole this branch road, on which the traffic is light, has been kept in very good order.

Southern Central Division,

A single track, all steel-rail line, extending from Fair Haven to Pennsylvania State line near Sayre, a distance of 114 miles. Since the last inspection of this road, further improvements and completion of those then begun have been accomplished. All iron rail has been removed and all sleepers are in strong condition. The northerly end of

road has been ballasted equally as much as the south end, as noted two years ago. Cook safety-switches are used out of main track and adjustment of superstructure is fair. On the southerly end the line and surface of track is exceedingly good. Each of the bridges and openings were examined. There are about 225, all timber trestles, pile bridges and single spans, aggregating 7,450 feet in length. Those of short-stringer openings having masonry abutments are twenty-five in number, with an aggregate length of 275 feet. Two openings with masonry abutments have girder-rod trusses. There are eleven plate-girder bridges, from one to eight bays each. (The eight bays of plate-girders is a viaduct with iron piers.) These aggregate 650 feet in length. Of iron trusses, from one to three spans and from sixty to 150 feet in length, there are fifteen, aggregating a length of 2,300 feet. Total length of all openings about two miles. The iron trusses and girders are all in good condition, and have strong masonry substructures. A few of the minor openings having abutments are in poor condition of masonry, which should be relaid. The 7,450-feet of all timber structures are in various conditions, from entirely new to a depreciation in life of timber that calls for renewal. None were observed as dangerously defective. Constant watchfulness is maintained, and where doubt as to absolute safety exists, prompt renewals are made. Many of these timber-trestles have hemlock bents, a deceptive timber from its outside appearance. Yellow pine is far more desirable, especially as there is such a large amount of wood to be maintained. The fences and roadway are very well cared for, and drainage of road-bed generally well developed. The station buildings are, with few exceptions, in the same condition as reported in 1887. The exceptions are: Dryden depot has been newly repaired, and at Harford an entire new building has recently been built. Several of the station buildings need renovating and probably will be, after the more pressing work of permanent way is completed. Very much has been done to this property in the past three years, and as a whole it is in good order. The replacing of timber trusses with iron, the relaying of track with steel, the increased volume of sleeper renewals, the ballasting of road and better track adjustment, together with better life of the large amount of timber openings, have placed this division physically far above its conditions when first inspected in 1886.

MIDDLEBURGH AND SCHOHARIE RAILROAD,

A single-track road, five and three-quarter miles in length, two and four-tenths of which is laid with steel rails, and the balance is iron rail with chair connections. No change has been made in its condition since the inspection of 1887, other than the laying of about four-tenths of a mile with steel. The chair-iron rail, now in superstructure is very much worn and should all be replaced with steel. The sleepers are in fair life, but larger renewals are necessary. The road-bed never was ballasted to any extent. The line and surface of track is quite ordinary and track more or less filled with grass. The company has under advisement ballasting the road with broken stone, as there is no suitable gravel along its line. There are no truss-bridges. There are ten small openings from four to fifteen feet spans, and from one to four bays each. These were examined and with few exceptions are in good order. A fifteen-foot-span waterway has broken and falling abutments, which should be relaid. At Schoharie is a four-bay trestle with masonry abutments and pine bents. The bents are too old and should be renewed. The pressing needs of the property, to put it in condition for safe, quick transit of trains, are to ballast the road-bed, raise the ties to strong life, remove the old chair-iron and properly adjust the track. The whole could be done at small outlay. A better and cleaner depot at Middleburgh is desirable.

NEW YORK, CHICAGO AND ST. LOUIS RAILROAD.

The last regular inspection of this road was in 1887, report of which is given on page 184 of the first volume of the Commissioners' report for that year. An examination was made this season of all the timber structures in the road. Very much has been done to these in the past two years, especially in 1888. From Pennsylvania State line to Brocton, a distance of eighteen miles, is a single-track road by itself, and between Brocton and Buffalo, about fifty miles, the road, in connection with the Western New York and Pennsylvania, forms a double track, yet owned and operated as single-track roads. Independent of each other. No changes of moment have taken place in the condition of the great number of timber structures west of Brocton. Hemlock is largely used for bents and dockings, some of which is in poor life, especially of the smaller openings. Pine is used for stringers, and all have a closely-tied floor, with guard-rails. Two three-bay trestles of fifteen-foot clear spans have been newly erected. They have three pine stringers, seven by sixteen inches section and iron spool-packing. Three separate spans of eight feet each have been rebuilt. An eight-foot waterway with plank flooring at bottom, is partly undermined at the north end, and should be repaired. West of Ripley is a ten-foot span timber opening, with too old sills. East of the same place is an eight-foot span with bents leaning inward too much, and should be straightened up. A ten-foot span the same, all too old. Another eight-foot span, with bents inclining too much inward. Two twenty-foot spans of plate-girder through, should have a few floor-beams renewed. Westfield viaduct, 800 feet long, is in good order except its floor, in which a large number of new ties are wanted and a few new stringers. The stringers are delivered ready to use. Between Westfield and Brocton are a number of timber single-span openings, some of which should be renewed, also a trestle of nine bays, has a few too old sills. Between Brocton and Buffalo very much has been done to the timber bridges since the inspection of 1887. At Brocton is a twenty-two-bay new pine trestle. A ten-foot span under-farm-crossing, all new pine timber. Thirty openings on this road have been filled after laying thirty-six-inch iron pipe for drainage. Four more bays of new pine trestle. Between Van Buren and Dunkirk are six openings, from five to ten spans each, and one trestle of four, and one of five spans, all newly built of pine. East of Dun-

kirk are eight bays of new pine bent trestle, the stringers and ties of which are in very bad condition. Another of seven bays has a few too old stringers and new pine bents. At East Canadaway are thirteen bays of pine trestle, newly built. The stringers should be renewed. Five more bays of trestle are in like condition. Nearly all the trestles east of Dunkirk have new pine bents, but the old track-stringers and ties have not been renewed; many of them are too old. Silver Lake trestle has strong new pine bents, but really needs new pine stringers at once, also new ties on west part of the floor. At overflow of Cattaraugus creek are twenty bays of pile bridge having old stringers and caps. Posts are set up under outside stringers; a poor device. This bridge should be entirely rebuilt. At Cattaraugus creek are three 125-foot spans, two-truss (double-track) Pratt pin through bridges in good order. A 600-foot in length pile and trestle-bridge adjoining wants general repairs. East of Angola are fifteen bays of trestle partly filled, and a new trestle constructed top of filling. West of Lake View are seven bays of trestle, having new pine bents and old stringers in fair condition. The ties are much decayed. Eighteen Mile creek viaduct has too many old ties and a few too old track-stringers. East of Lake View are seventeen bays of new pine trestle; the stringers and ties are too old. East of Hamburg is a new pine trestle of twenty-eight bays. Over Smoke creek is a forty-foot span Pratt pin through truss in good order, except that the floor is too old. It is unnecessary to give details of the condition in which the 144 entire timber structures on this road were found, as the Honorable Board will find each separately described in this year's field notes, filed in their office. As a whole they are in better condition than noted at any previous inspection. West of Brocton the superstructure is in fair order. The sleepers are in medium life, and large renewals are desirable. East of Brocton is a much stronger track and better adjusted. A large amount of rebalasting has been done. Eighteen miles of new steel have been laid and 45,000 new sleepers renewed in 1889. The few station buildings maintained by this company are in same condition as reported in 1887.

NEW YORK AND MASSACHUSETTS RAILROAD.

About four miles of sixty-seven-pounds-per-yard steel rails have been laid in repairs of track since the previous inspection, made in 1887. Seven miles of same rails are now delivered along the road, but not placed in superstructure. The iron rail is much worn, and considerable renewal is necessary. The sleepers, with exceptions of a few short stretches of track, are in poor condition, and large renewals are required to properly hold gauge of track. In adjustment the superstructure appears quite as deficient, even more so than when last inspected. The great need of the physical condition of this property is a thorough renewal and adjustment of its track. The openings in road-bed have been improved, but there is further repairs and renewals necessary, including the rebuilding of masonry substructures. There has been considerable rebalasting of road-bed, sufficient for the relaying and maintaining of a new superstructure. In drainage of road through cuttings there is much work to be done to retain a good line and surface of track. Each of the openings were examined. Near Poughkeepsie is a new trestle-bridge of four spans, taking the place of a too old truss. A twelve-foot opening has too old stringers, and they should be removed and a strong floor provided. West of Pleasant Valley are a number of single openings of short spans which have recently been renewed in stringers and ties. East of same place where was a truss-bridge is now a trestle; this opening is followed by a number of others newly repaired. At Salt point is a trestle of thirty bays of fourteen feet each. This trestle has been newly floored, and the bents are yet in fair life. West of Clinton Corners is an opening of two sixteen-foot spans which have masonry abutments and a timber bent at center. The stringers are old and should be renewed. West of Spring Brook is a seven-foot opening which should be rebuilt. East of same place is a ten-foot opening that should have new stringers and floor.

Another opening near the last, and same width, has abutments about twenty feet high, which are in very poor order. Shores placed between the abutments keep them in position. The masonry should be relaid. East of Pine Plains is a twenty-five-feet span, about thirty feet high; the masonry of which is broken. Trains are slowed while crossing, but new masonry is very necessary. East of this last is a ten-foot opening with bent abutments and plank lagging. A new structure is very necessary. Near the lead mines is a ten-foot span water-way having broken masonry abutments, which should be relaid. A trestle of thirty spans of twelve feet each is in very good order. The stringers break joints in center of spans. This is objectionable construction. It would be well to shift them so that the joints would come at center of caps. Otherwise the trestle is in good condition. A twelve-hundred-foot trestle at Iron mines and about fifty feet above surface of ground, has recently been overhauled, and is now in good condition. An under-farm-crossing of fourteen-foot span has been rebuilt. There are a few openings in road-bed having the objectionable feature of the rail being placed directly on the track-stringer, leaving an open floor. One of these is within twenty-five feet of a stub-switch. It is suggested that these be provided with a competent floor. The depots have mostly been renovated and painted; each of them were found neatly kept and have good plumb forms. Care is taken to maintain fences, which is done as well as the old material will admit. As a whole, the road in its maintenance is only fair, even for the light-business of the line. The grades and line of road are favorable and road-bed ample in width. It is suggested that the defective openings be repaired and the superstructure improved in its strength and adjustment.

NEW YORK AND NEW ENGLAND RAILROAD,

A single-track road from Fishkill Landing to Wicopee junction, about two and a half miles from which point to Hopewell junction, eleven miles, the track of the Newburgh, Dutchess and Connecticut railroad is used. From Hopewell junction to the State line is a further distance of twenty-nine miles. Near the State line, the city of New York is

building a large reservoir, the surface of which, for three miles, will be above the present road-bed, which is in part a depression. A new road-bed is being graded along the side-hill, which will be above the surface of water. It will also remove a long sag in place of grade. The work was well begun at the time of inspection. Other than those at east end of the line, where the change in route is being made, there are twenty-seven separate short spans having good masonry abutments, and competent stringers and floors. A few had stringers noted as a little too old and suggesting renewal, and a few new ties are needed in some of the floors. These openings are from six to twenty feet in width, aggregating 370 feet in length. There are seven plate-girder-deck trusses, from twenty to sixty feet spans, chiefly over highways. They have good substructures, are strongly floored, and aggregate 220 feet in length. One of them, west of Towners, is much askew, and additional width of road-bed for approach is suggested. There is a through lattice-bridge over the Central-Hudson railroad at Fishkill having an entire iron floor, removing all danger from fire from passing locomotives underneath. The cost of this floor for the span of about 100 feet was \$400, a small amount as against the expense of watchmen and danger to traffic. There are many similar crossings in our State where such a device would aid much to insure safety. It has been in use about three years and proved a success. There is a 100-foot span, through Howe truss, east of Hopewell, another of 160-foot span over the Harlem railroad, a deck McCallum truss of thirty spans at Brewster's, and a sixty-foot deck Howe truss east of the same place. All these bridges are closely covered, have substantial abutments, and are in good physical condition. At Fishkill, the long double-track pile-bridge crossing a bay has been filled to the extent of 1,600 feet, and remainder of bridge, about 900 feet, well repaired. A four-bay trestle near Brewster's is in good condition. At the crossing of the New York and Harlem railroad are long trestle bridges at each end of the Howe truss over the track. They rest upon pile foundations, more or less decayed and so insufficient that blocking is used under the sills of bents. There are two plate-girders also in this stretch of trestle, which, with the bridge over road, have good masonry abutments. The long trestle of itself is in good life but new foundations are necessary. A culvert or short span of open waterway at east end is the only other masonry necessary to complete the way for filling, which it is suggested be done. At Fishkill, a large amount of filling in the bay of the river has been done in enlarging the yard at that point. The sleepers are generally in good life, and renewals at the rate of 400 ties per mile were made in 1884 and a like number this season. The track is nicely adjusted, and with the exception of a few clay cuttings, the road-bed is well drained. Fences are strongly kept up and roadway clear of brush and debris. Each of the station buildings were found in good condition and neat generally. One waiting-room at Hopewell junction is the exception. At Ryndsville is a newly built and located station. It is a small one-waiting-room depot, but undoubtedly sufficient for its purpose.

NEW YORK, ONTARIO AND WESTERN RAILROAD.

Southern Division,

Extends from Cornwall to Sidney, 148 miles; also the Ellenville branch, eight miles, and Delhi branch, seventeen miles.

Main Line.

The inspection began at Cornwall, where junction is made with the West Shore railroad, and its tracks used to Weehawken, opposite New York city. The road was closely examined, especially the wooden trestles and bridges. Between Cornwall and Middletown those of recent construction are well built. There are two spans of Pratt pin through bridge, of 120 feet each, over the Wallkill, and eight separate plate-girders, from fifteen to forty-foot spans, an iron viaduct over Murderer's creek, and twenty-five separate openings from five to fifteen-foot spans, having I-beam girders. These iron bridges and girders have excellent masonry substructures. In wood there are twenty bays of yellow pine trestle, about fifty feet high and a short span of deck Howe truss over a ravine at Idlewild. There are also two separate yellow pine trestle under-crossings of three bays each, and one short span waterway, with good masonry abutments and large oak girders; also one trestle of three bays, having hemlock bents a little too old, east of Middletown. All these bridges and short openings have good floors. The through truss over the Wallkill has large guard-posts and extended floors at each end; also the Latimer's safety device and inside T-rail guards. The road west of Middletown has been in operation about twenty years, and considerable hemlock trestle work entered into its construction. Lately yellow pine has been used to a great extent in renewals; in fact all the hemlock is being removed from entire road as rapidly as it becomes necessary to rebuild. A number of iron trusses have been built, replacing those of pine. Between Middletown and Sidney there are twelve separate iron trusses, from one to three spans each, and from fifty to 150 feet long, aggregating 2,400 feet in length, and two iron viaducts, one 700 and the other 1,300 feet long, a total length of 4,400 feet of iron bridging, all of which is in good condition and has the best of masonry substructure. A few coping stone on pedestals, in the 1,300 feet Phoenix column viaduct near Sidney Center, have failed, and will be replaced with new stone. Nearly all the iron work in these bridges has recently been painted. Each has a strong floor and generally inside T-rail guards. There are nine Howe trusses, from seventy to 110-foot spans, one of which has two spans. These aggregate 880 feet in length, and are mostly in good condition. One near Rockland, of 120-foot span, is on bents, and a new bridge is suggested. Over the Delaware and Hudson canal is a 110-foot span through Howe truss, fourteen years old. It has been covered a great part of this time. The main trusses have been fitted with timber, and the bridge has additional truss-rods at each panel point. As yet there are no serious signs of failure, but the age of timber suggests its renewal. There are eight separate A trusses, from thirty to fifty-foot spans, built of yellow pine, aggregating 288 feet in

length, all of which are in fair condition. There are three I beam girder openings, one of which is two spans, in all forty feet in length. These have good abutments and floors. There is one straining beam and spur-braced opening of twenty-foot span, and nine separate girder-rod trusses of one and two spans each, about eighteen feet in all 232 feet long. Nine trestles, built entirely of yellow pine, are new and in good order. They are from six to 110 bays each, and from three to fifty feet high, aggregating 3,000 feet in length. In renewing a number of trestles, yellow pine was used for sills, caps and stringers, and hemlock for posts. There are ten trestles of this character, from eight to fifty-three bays each, and from twenty to sixty feet in height. One of them, west of the Delaware and Hudson canal, has thirty-three bays in which the timber is becoming too old. A culvert for drainage is built. It is suggested that this trestle be filled. The total length of this last-mentioned trestling is 3,730 feet. Nineteen trestles have bents entirely of hemlock, aggregating 2,120 feet in length, in unequal life of timber. One of eighty and another of thirty bays, from forty to sixty feet in height, and two smaller trestles are in poor condition and will be filled with material from the tunnel now being excavated under Sidney Summit. Two trestles of three bays each, west of this summit should be rebuilt. There are fifty-six single spans having masonry abutments and a few with yellow pine bents, from four to sixteen feet wide. These have good yellow pine stringers and floors and the masonry is mostly in good condition. A few of these substructures, however, have failed, and it is suggested they be rebuilt. The sleepers between Cornwall and Middletown have all been renewed, chiefly in the past three years. The track is in good order, fences strong and roadway clean and orderly. The passenger stations are the same and in like condition as reported in 1887. At Campbell Hall, new railroads have formed a junction with the Ontario and Western and a large frame depot has been built for joint use. At Middletown is a joint depot with the Erie, and the Susquehanna and Western roads at the lower part of the town. The Malden avenue depot is about one mile west of the lower station. It is a good frame building in which are the offices for those in the immediate charge of the road. It has a restaurant and a waiting-room, both of which were found very clean and well furnished. An addition of eight stalls has been made to the round house, also additions to the shops. From Middletown to Sidney the maintenance of the track as a whole is not quite as good as between Middletown and Cornwall. At a number of points a more generous renewal of sleepers appears necessary to bring them all up to a strong condition. Ties were delivered along sections of the road, and probably the defective stretches of sleepers have been renewed. Eleven miles new sixty-seven-pounds-per-yard steel rails have been laid this year. The superstructure is all laid with steel, except at a few points. Wharton switches are used at all sidings out of main line. Where sidings incline toward main track throw-off switches are provided. The fencing is generally well kept up, and nearly all of the roadway clear of weeds and brush. The track adjustment has been improved as a whole and is in good line and surface. The station buildings west of Middletown were each examined. They are neatly kept; a number have been repaired and painted. At Winterton, Hurleyville and Liberty Falls new frame depots have been erected; the station building at Walton rebuilt and moved easterly to a more convenient location. A Y connection from the Delhi branch to the eastward and additional sidings in the enlarged freight yards, have been laid. At Fair Oaks and Hurleyville, long additional sidings have been put down to accommodate the increase of traffic. The roof of the tunnel at Bloomsburgh is kept clear of loose material and has constant watching. No serious disturbance has taken place since the previous inspection. Fifty-four feet of additional brick arching has been turned and it is hoped the roof is now stationary. The other tunnels are in good condition. The zigzag over Sidney Summit is to be discontinued. Work is now well advanced in the boring of a tunnel which will greatly reduce the amount of grades now operated.

Ellenville Branch,

From Summitville to Ellenville, seven and three-quarters miles in length, laid with steel, partly worn, from main line. The sleepers are in fair condition and track adjustment very good. The two A trusses are in good line and each has a new floor. There are eight single-span openings from six to ten feet each, most of which has good masonry abutments. A few have new yellow pine stringers in good condition, but the majority are white pine, and some of them too old. A few of the floors have too widely spread ties. It is suggested that all these openings, other than those recently overhauled, be thoroughly repaired and floored. The fencing is well kept up and roadway clear of brush and debris to its full width. As a whole the condition of this branch is much stronger than two years ago. The depot at Phillipsport has been repaired and painted, otherwise the depots are in same condition as at last report.

Delhi Branch,

Single track, laid with partly-worn steel rails from main line. The sleepers are in quite ordinary condition, too much so for proper maintenance of line, surface and gauge of track. A larger renewal is suggested, also the removal of grass from road-bed and between the rails. The grass has been mown along the roadway, but the underbrush and weeds have not been cut. The fences are very well kept up. Seven trains per day are run over this branch, and it appears desirable that a better superstructure should be maintained. There are nineteen separate openings in road-bed, ten of which are short spans from six to fourteen feet wide. These have abutments of masonry and good yellow pine stringers. The ties are often in poor condition and a stronger floor is suggested. At Walton are two separate hemlock trestles of about fifty bays each and a forty-foot span A truss on bent abutments. The southerly trestle is in good condition, but the one directly opposite the village has in it some too old hemlock timber. The stringers are yellow pine in good condition. There are seven other trestles on this branch from

one to eleven bays each aggregating 378 feet in length. The bents are hemlock, some of which should be renewed. The stringers are yellow pine in fair preservation. Most of the ties on these bridges are black oak, many of them in poor condition and should be replaced. The depots at Hamden and Delhi are frame buildings, in good order and neatly kept. This branch is in better condition than two years ago. A stronger and better adjusted superstructure is its only pressing need.

Northern Division,

From the grade crossing of the Albany and Susquehanna railroad at Sidney to Oswego, 124 miles, and the Unadilla river branch from New Berlin junction to Edmeston, thirty-two miles, all single track.

Main Line.

The superstructure is laid with steel rails, all of which are in good condition, and angle-bar fastenings for rail joints. The sleepers are mostly in strong life. There has been a large renewal of ties on this division west of Norwich within the past two years. East of Norwich the renewals have not been so extensive, and at a number of points, some of which are on the maximum grade, a larger renewal is suggested, until all are brought to sound condition. Ties were distributed at occasional points, and before the close of the present season they will as a whole be in better life than at the time of inspection. The adjustment of track has also been improved since 1887. A marked improvement in the large number of timber openings and trestles was noticed. Yellow pine has been used in renewals, and all openings in both divisions are to have the hemlock removed this year, and yellow pine substituted. Between Sidney and Oswego are about 121 trestles, from one to 119 bays each, from four to fifteen feet wide aggregating a length of about 10,000 feet. Between Sidney and Norwich are three trestles of nearly 100 bays each as high as forty feet, which have been renewed within two years in yellow pine. Masonry piers are built under the bents of these and many others of less magnitude. A few hemlock bents in trestles were found too old in life, and occasionally a stringer (nearly all of which are yellow pine) was defective from age or action of fire. Attention was called to these as the inspection progressed. A detailed statement of all structures and their separate condition may be found in the field notes filed in the office of your Honorable Board. There are thirty-six short single-spans of waterways and under-crossings, from five to eighteen feet wide, having masonry abutments and mostly yellow pine with a few oak stringers. The masonry is generally in good order, though occasionally fractures have occurred and abutments need rebuilding. The stringers are usually in good order and of ample size. One span of eighteen feet has two oak stringers, seven by sixteen inches section, which is light for weight imposed and should be reinforced. Sometimes there are hemlock stringers which require replacing, as they show rather excessive age. The ties on many of these and on the trestle work are not in as good life as desirable, but will undoubtedly be replaced as the work of substituting yellow pine for hemlock progresses. There are but a few pile bridges, and these of one or two bays. The bents of most of the trestles west of Norwich rest upon pile foundations. There are six girder-rod trusses from fifteen to twenty-foot spans. One or two of them were found with truss-rods out of adjustment, and the substructure of masonry. In a few instances, waste relaying. There is one girder-rod truss eighteen-foot span, west of Fulton and in a trestle bridge over a stream, which has too short a bearing of stringers on cap of bent. The stringer of the trestle abuts the girder-rod stringer, giving but six inches bearing, and even a little less, on the cap. A double bent at each approach to the girder would be on the side of safety. West of Eaton 300 feet of trestle, and at other points, parts of trestles have been filled. There are sixteen separate iron and wood truss bridges, and an iron truss over outlet to Onondaga lake, occupied in common with the Elmira, Cortland and Northern railroad. West of Sidney, crossing the Susquehanna river, are two 150-foot spans of through Howe trusses eight years old. They are in fair life and have been reinforced by filling between main braces and by additional truss rods. There is no movement, longitudinally, of strands in the lower chords; they are held by the Bishop clamp device. Crossing the Unadilla river, west of this are two similar spans of deck-bridge of 128 feet each, of the same age and condition as the other. An A truss of thirty-five-foot span, further west, has one pile and one masonry abutment. The pile abutment is in poor condition and needs to be rebuilt. The truss is also a little defective at the foot of one main brace, but is held in position by an iron clamp. The next bridge is an iron viaduct over Lyon brook, and is 150 feet in extreme height. There are twenty-four spans of thirty feet and four spans of fifty feet which originally were two spans of 100 feet. These were divided by erecting strong iron piers at their center. Enlarged wind rods have also been put in the trusses. The floor of this viaduct requires renewal in part, where the ties are too small and old, and some badly spike cut. West of this is an A truss of forty-foot span, built of yellow pine. It is in fair life of timber, and otherwise appears in good condition. East of Norwich, crossing the Chenango river, is a new lattice bridge, 150-foot span, of best construction. It has guard-posts, as have all through bridges on the road. When last inspected it was a Howe truss, of doubtful strength of timber. West of Norwich over the same stream is a through Howe truss of about 130-foot span. This is an old structure and shows signs of yielding at bottom of main braces. It has also a few poor floor beams, and all considered a new bridge is quite desirable. A short distance west is an exactly similar structure. It has a broken angle block, and shows some yielding of braces. Here, too, a new bridge is desirable. East of Smyrna is a new lattice bridge of sixty-foot span, having new masonry abutments. When last inspected in 1887 it was a Howe truss, in very poor condition. West of Smyrna is a fifty-foot span A truss, built of yellow pine. A few new ties are wanted, otherwise the bridge is in good condition. West of Earlville

is a similar truss of forty-foot span. It has new abutments and truss, is in fair life. West of this is a hundred feet span through Howe truss. The timber appears in good life and there are no signs of failure. The first set of main braces have been filled in with timber, and there are additional truss-rods. It has good abutments and strong floor. East of Randallville is a forty-foot span A truss, on fair masonry abutments. The bridge is built of yellow-pine and is in good life. Over Oneida creek is a deck Howe truss of sixty-foot span, six years old. It is in good condition except rail-guards of floor. West of Oneida is a 100-feet span, through Howe truss, seven years old, with the timber in good preservation. The truss-rods and lower chords have been reinforced. Over the Erie canal is a 150-foot span through Howe truss and an A truss over highway. Both are eight or nine years old, show no signs of yielding either of lower chords or braces. They have not been covered and a careful examination by probing might show a decay of timber. All the timber-trusses of moment on entire line, with possibly one exception, are from six to nine years old, and the increased weight of motive power has necessitated an increase of resisting force. A year or two more will be about all that absolute safety will permit these trusses to remain. At the inlet of Oneida lake is a long span of through-iron-truss used jointly by this and Elmira, Cortland and Northern railroad. Two tracks pass over the bridge and cross at center of truss by points, the angle of crossing-plates at each end of the bridge is very slight, making points of frogs long and slim. These have broken several times, and by error of switch or trainmen, trains have run over to track not their own. It does seem after two years experience, that it would be better to have only one line of rails on the truss, and use switches at each end, sufficiently removed to allow for throw-offs, should a train pass a signal to stop. These switches could be interlocked in a way that one being open the other would be closed. Your inspector suggests that such arrangements be provided. All of the depots were inspected. The stations at Guilford, Oxford, North Norwich and Cleveland have recently been painted. Eaton, Munsville, State Bridge and Pennellville stations have been repaired and painted. Sylvan station and Smyrna have been remodeled and nicely furnished. North Bay depot is in good order. The Earlville station would be very comfortable if more tidy. The stations at Community, West Vienna, Bernhard's Bay, Constantia, West Monroe and Caughdenoy, require more or less repair and renovation. Oneida was found exceptionally neat.

Unadilla Branch,

From New Berlin junction to Edmeston, now all steel rails, a renewal which has been completed since 1887. Between New Berlin and Edmeston, six and eight-tenths miles, is the newly-built extension of this branch. On this new road, there is very little masonry besides the abutments and piers under the two spans of eighty-feet through Howe truss at New Berlin. Besides this truss, are four separate sixty-foot spans of low through Howe truss on pile abutments. There are twenty separate water-ways and under-crossings of pile and trestle-work from one to twenty bays each, generally eleven feet in width, aggregating 630 feet in length. Some of the trestles have hemlock bents, and all have hemlock lagging. The piles are chestnut or oak, the caps and stringers are yellow pine and each opening has a good floor. The road-bed was considerably damaged by the freshets of last season. Eighty feet of pile bridge was carried away, all of which was being repaired. Between New Berlin junction and New Berlin, the improvement is considerable. Where was iron rail is now steel, in fair order. One-ninth of the sleepers have been renewed this year, which, with the liberal repairs after the inspection of 1887, materially better their general strength. The superstructure is now in fair adjustment and road-bed clear of grass for the greater part of its length. At New Berlin junction, is an iron viaduct of Fink trussing, thirty feet high. It has eleven bays of twenty-foot span, and over stream one bay of thirty-five feet. It is supported by iron bents, resting on masonry piers. South of Mount Upton is a yellow pine, forty-foot-span A truss in good condition except its ties. North of White's Store are two spans of A truss built of yellow pine with masonry abutments, all in good order. North of Holmesville is a similar bridge of two sixty-foot spans in good preservation. Between same points are sixteen openings for water-ways and under-crossings from six to twenty-eight-foot spans, aggregating 172 feet in length. Mostly, they have good masonry abutments, but in a few instances these walls are broken and should be relaid. There are also twelve separate pile and trestle bridges from one to twelve bays each, from six to twelve feet wide, a total of 410 feet in length. Some of these have hemlock bents and lagging, which are in poor life. The station buildings are as before reported, except at Holmesville and South New Berlin they have been renovated and painted. At Edmeston is a new frame depot for freight and passengers.

Utica Division.

This division comprises the Utica, Clinton and Binghamton railroad from Randallville to Utica, thirty-one miles, and the Rome and Clinton railroad, thirteen miles. These roads are single track, all laid with steel rails, part of which has been substituted for iron on the Rome branch since 1887. Between Randallville and Utica, no change in maintenance, of any moment, has been made, excepting the completion of the iron bridges over the Central-Hudson, and Delaware, Lackawanna and Western roads, and the road-bed which forms a connection with the Utica and Black River railroad at Utica. These bridges consist of fifteen spans of plate deck-girder twenty-five feet each, having iron piers resting on limestone masonry, three spans of double intersected lattice through of ninety feet each, and one span of plate-girder deck sixty-five feet in length. The extreme ends of the lattice trusses, and the north end of the long span plate-girder rest on excellent limestone masonry. There are also twenty-five bays of trestle twelve and one-half feet wide, connecting with trestle-work over coal-yard. The ties are eight by ten inches closely spaced. The entire structure is on a sharp

curve. The floor has inside T rail-guards on inner rail. The length of this connecting road is about three-fifths of a mile. Over the Erie canal is a through lattice swing-truss in good order. South of Oriskany Falls is a plate-girder-deck, over a highway on good masonry abutments. There is also a fifteen-foot span deck truss, made of T rails in good condition. The wooden trusses are as follows: North of Solville is a thirty-foot span, low through Howe truss, having a new floor. The abutments and truss are in good order. North of this is a twenty-foot span Queen truss, having reinforced truss-rod, and good abutments. North of this is a fifty-foot span through Howe truss, in good condition, and has additional truss-rod. The north abutment is falling, and a bent is under that end of truss. A new abutment is suggested. North of this is a 100-foot span through Howe truss, five years old. It has a new floor and the abutments are in good order. South of Oriskany Falls is a forty-foot span low through Howe truss, with additional floor beams and truss-rod. North of same place is a sixty-foot span low through Howe truss, quite old. It has additional truss-rod. Would suggest a bent under the bridge at second panel-point, until a new bridge is provided. North of this is a 100-foot span of the same character, the north abutment of which is falling. It has a bent inside. The rebuilding of the abutment is suggested. South of the West Shore grade-crossing are two spans of sixty feet each, low through Howe truss, in good life, and have air abutments and piers. Over Water street, Utica, is a forty-foot span, low through Howe truss, which is an old bridge. It has additional strands in lower chord and additional truss-rod all through. A plate-girder is suggested to supersede this bridge. There are twenty-one separate spans of waterway and under-crossing, from one to three bays and from four to fifteen feet wide, with masonry substructures. Some of these abutments are very poor, and should be rebuilt. There are twelve separate trestles, some of which are newly built in yellow pine. They are from one to eighty-two bays each, and aggregate 1,570 feet in length, the longest of which is over a coal yard in Utica. It is in poor life and is to be rebuilt at once. Three girder rod-trusses complete the openings. They are strong and have good masonry abutments. The sleepers are in very good life, except north of Clinton, and ties for renewals are delivered along the road. The track is very well ballasted south of Clinton, where the best adjusted track prevails. The north end of the road requires ballasting, and a better line and surface of track is desirable. The fences are very well kept up, and roadway for its greater length is clean of weeds and debris. The station buildings are as before reported, and each was found in good order and neatly kept.

Rome and Clinton Branch.

Since the inspection of 1887, all the remaining iron rail has been replaced with second-hand steel. Over Oriskany creek at Clark's Mills is a double intersected lattice through-bridge, 100-foot span. There are besides this, two through plate-girders at Westmoreland which are in good order, well-floored, and have good abutments. At the Junction near Clinton is a twenty-four-foot span Queen truss made of T rails. It is in good condition and has a newly-built substructure, which, with the rebuilding of masonry in a number of short-span waterways and under-crossings, constitute about all the betterments on this branch. Near Clark's Mills, over a raceway, is a sixty-foot span, deck Howe truss in good order, but has poor masonry. At Westmoreland is a twenty-foot span, low through Howe truss, with additional truss-rod. A plate-girder will soon be desirable. South of Rome is a fifty-foot span deck Howe truss, one abutment of which is broken, and leaning inward and against the end of the bridge. It is suggested that the truss be bent at the defective abutment, and new masonry constructed. There is one girder-rod-truss of twenty-two feet span south of Westmoreland. Twelve openings of four to sixteen-foot spans, have good yellow pine stringers, and mostly newly-built masonry. A few, however, are quite defective in this respect, and a renewal is necessary. Yellow pine stringers and strong floors are on all these short spans. One span of four feet only is of hemlock in very poor life. A renewal is needed. The sleepers have, perhaps been more liberally renewed since the previous inspection, but they are not yet, as a whole, in full strength. New ties were delivered along for repairs. The fences are fairly kept up and roadway more or less neglected. The track adjustment is ordinary, owing, in part, to the want of ballast. No changes have been made in the station buildings.

In general, there has been accomplished in the past two years a great improvement in the permanent way of the Ontario and Western road. For hemlock in its structures, yellow pine has been substituted, a far better, more durable and less deceptive material. Over 500,000 feet of this timber has been used, since the previous inspection, and a like amount has recently been ordered to complete the removal of hemlock from the entire road and its leased lines. Four hundred and twenty-two thousand sleepers will have been renewed when those noted as delivered are used. A number of iron bridges have superseded those of wood, and in ballasting, in rails, track adjustment, in rebuilding of masonry and other like items of maintenance, a marked betterment is apparent. As compared with six years ago, the change is very great, showing, as it clearly does, a purpose to make the line substantial, durable and safe.

NEW YORK AND ROCKAWAY BEACH RAILROAD.

There are about five miles of double-track pile and trestle bridging on this nine miles of railroad, four and one-half miles of which, crossing Jamaica Bay, is one continuous structure. In addition to the large renewal of piles treated with a preparation of creosote, driven during the past and previous seasons, 200 additional are being put down, which, when completed, will bring the piling to a strong condition. The driving of the original bents was more or less imperfectly done, which has been carefully avoided in the renewal. Each bent has now from four to six and more new creosoted piles, of large size and well driven. One hundred and sixty new caps and 450 new track-stringers,

were, at time of inspection, being put in place. The vertical sway-bracing has been increased, which, with an additional number of new track-stringers and a few new ties and guard-rails, will place the whole structure in very good order. Another season nearly all of the original track-stringers will probably require to be renewed. There are about thirty-six miles of single stringers in the structure, giving an idea of the amount of timber to be maintained. The two iron pivot-draw-bridges are in good order, except that a coat of paint is needed. The usual protection of distant and home signals are used for these openings. The trestle crossing the Long Island railroad, near Ozone Park, has been in part renewed. Additional stringers and ties for further repair are delivered. At the Woodhaven Junction depot, on the deck of this trestle, a hand-rail and platform, opposite the side on which passengers are taken or dropped, has recently been put up, which relieves the danger of a passenger unwittingly stepping off a train and falling from twenty to thirty feet, as was the case at a similar point on another road. A double track connection with Atlantic avenue division of the Long Island railroad at Ozone Park is being laid and an interlocking machine is being put in place. One or two new fishing stations have been established on the Jamaica Bay bridge, all of which have good platforms, strongly hand-railed. At the junction known as Hammel's at south end of bridge, where the new single-track Branch to Far Rockaway diverges, a new depot with covered and fenced platforms have been erected. It is a well-arranged station, competent to hold a large number of excursionists. The new branch to Far Rockaway was inspected. It is a fairly constructed single-track road, three and one-half miles in length. There are one or two pile bridges of about ten bays each. They are built of large-sized, yellow-pine timber and well floored. Avon, a station on this branch and a summer resort on the sea coast, has a beautiful frame depot and covered platforms. The Far Rockaway station is in the same good condition reported last year. This new branch forms a belt line, upon which are run trains during the extreme of summer travel from either Long Island City or Flatbush avenue depots to Rockaway Beach, Far Rockaway, Valley Stream, Jamaica, and return to points of departure, or they are run in the opposite direction. All along the Rockaway Beach, from Hammel's to the depot near the large hotel, a distance of about one mile, there is an almost continuity of platforms and one or two regular depots for the receiving and discharging of passengers. Each of these platforms have picket fence inclosures, in which to hold excursionists until a train-load has accumulated, when the gates are shut outside and those adjoining the train are opened, the train loaded and again the gates set to gather in another train load. It is by such means that the large crowds of people are handled promptly and safely. Care appears to be taken in the construction of these platforms and inclosures that they be substantially maintained. The depot at end of track, and long storage and passenger sheds with their platforms, are in the same good order as before reported. Generally the sleepers are in good life and track adjustment carefully kept up. As a whole, this property is in better condition than heretofore seen. Unremitting care should be given and prompt renewals made when necessary in the long bridge; a watchfulness which it evidently now receives.

NEW YORK AND SEA BEACH RAILROAD.

This road is now all double-tracked and mostly laid with iron rail. Some new rail replacing the rather much worn iron appears necessary. A quantity of iron rail which is about as good as new, yet remains on the long trestle of the old Sea Beach and Brighton railroad. This rail supplies for all needed renewal. This spring an inspection was made of the piling under the Bay Ridge terminal and found in good condition. Three thousand chestnut ties are provided for renewing sleepers this year, which will probably bring them all up to a strong life. As a whole they are in better condition than found last season. The track adjustment is fair, but side ditches require to be opened for the better maintenance of track surface. The bridge over Manhattan Beach railroad requires a few new stringers and ties. The pile bridges are in good condition excepting the one just north of Coney Island creek under west track, which should be carefully examined and some renewals made. At the draw-bridge and trestle over Coney Island creek two bents at the south end could be filled to advantage, especially the east track. The west pile-bridge at this point is quite old and renewals or rebuilding will soon be necessary. The easterly track is a new structure. Bay Ridge station and covered train-shed is in good order. Coney Island depot and hotel is the same as before reported. Its platforms need repair and a thicker flooring would be much better. There are no fences of moment on the road and last year the weeds were more or less neglected. Generally the property is in a safe condition and has improved very much since the inspection first made. The equipment has been renovated and repaired ready for this summer's use.

NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD,

A single-track road, in this State, thirteen miles in length. It is now all laid with steel rails, part new and part previously used on other portions of the road. Point switches are used out of main line. The road-bed is in want of a good coating of fresh ballast and a large renewal of sleepers. The superstructure is mostly in ordinary line and surface. South of Johnson's is a fifty-foot span low through Howe truss in fair preservation of timber, with a new floor. Guard-posts are located at ends of all through trusses. North of Johnson's is a similar bridge in very poor life of timber, and rests on two bents, at one-third its span. Those bents were displaced by the spring freshet and ice flow of 1889. A new bridge is urgently suggested. South of Middletown is a two-span trestle in place of a girder-rod truss. The abutments are twenty feet high, broken and falling. It was stated that an arch culvert was to be built this season. Something should certainly be done to insure safety. The trestle approaches to the iron-truss

over the Erie railroad have been filled and good masonry abutments erected at the bridge. South of Unionville are four bays of new yellow pine trestle of seven-foot spans. Where was a defective A truss north of Unionville is a twelve-foot opening resting on masonry four feet high, and a bent on top of abutments same height. One cap and the lagging are in poor condition. There are nineteen openings in the road-bed, most of which have masonry substructures and some newly laid. The stringers are yellow pine of ample size and in good life. Two openings of twelve feet have I beam girders; a few short spans are in need of repair and in part renewal. Eighteen short spans and cattle-guards have T rail girders. All openings have ties and generally guard-rails. Several highway signs are omitted. The fences are fairly kept up and road-bed clean and orderly. The depots at Johnson's, Slate Hill and West Town have been repaired and painted.

NEW YORK AND NORTHERN RAILWAY.

There is considerable change in the outline of this road since the last inspection which was made in 1887. A second track between High Bridge and Van Cortlandt junction, a distance of four miles, and a double-tracked branch from that point to Yonkers, a distance of three miles, have been constructed. The Yonkers branch is a thoroughly built road. In the city of Yonkers there is about one-half mile of elevated track and the terminal is on high ground about thirty feet above and at right angle with Broadway, one of the principal streets, and near the business center of the city. A beautifully designed brick terminal has been erected, which has the novelty of its waiting-rooms and train-house adjoining in the third story. A large passenger elevator conveys the passengers from a vestibule on a level with the street, to the waiting-rooms. Wide and easy stairs are also provided for the discharge of passengers. The elevated road is a plate-girder deck structure resting on iron piers. At a street crossing near Park Hill is a plate-girder through bridge approached by an iron viaduct about 200 feet in length. Near Mishol is a lattice deck bridge about ninety feet in clear span. There are several other iron structures, the whole resting on masonry of an excellent character. There is one long timber trestle of yellow pine timber with bents resting on masonry piers. The superstructure is of steel rail, fastened at joints with angle bars and ties of large size, closely spaced; the tracks are well surfaced and lined and road-bed very well ballasted. The slopes of a few cuttings have slid to some extent and require cleaning out and ditching. The company operate the Mahopac Falls railroad extending from Baldwin Place to the Mahopac iron mines, a distance of four miles. The main line from High Bridge to Brewster's, fifty-three miles was carefully examined. Each structure, including all small openings in road-bed, were inspected in detail as were also all of the passenger stations. A much improved maintenance generally prevails all along the road and further betterments in progress. At Croton Lake, the piers have been uncovered and excavated within the outside course of stone for a depth of six feet below the surface of the water. Grout has been freely used, filling all the interstices in the mass, and stone is at hand to raise the piers about forty feet, doing away with the present iron support. A new bridge for these three spans is about to be erected. The abutment at south side of lake shows no recent movement and has remained at rest for a number of years. The sleepers are nearly all in fair life and renewals at hand, when in place will strongly hold the gauge and support the rails. At a number of places a readjustment of line and surface of track is desirable. A few of the wet cuttings, wherein slides have recently occurred, require to be cleared and ditches opened; one or two embankments have also suffered from slides, leaving the road-bed quite narrow and with steep slopes; these should receive attention. At one point where a sag in grade is abrupt, the arch culvert under the embankment is to be lengthened and plane of grade improved. A thirty-foot span through lattice truss over Saw Mill river north of Mount Hope has one abutment in poor condition, and a few new floor beams are desirable. A few openings have small ties in floors, some of which are in poor life. North of Woodland is a 100-foot span through Pratt truss which requires a few new floor beams. Generally in floors of trusses the beams extend from chord to chord as in wood trusses. Track-stringers are not used, the rail resting directly on the floor beam. The ties in floors of one or two openings north of Elmsford need to be in part renewed. North of Whitson under an eighteen-foot girder, the masonry of one abutment is falling. A number of clay cuttings north of same place, should be reditched and track adjusted. The masonry of a number of small openings between Croton Lake and Baldwin Place should be rebuilt. Near Craft's is a trestle about forty feet in height and over 1,000 feet in length. It is all of yellow pine timber and in good order; the bents rest on cobble-filled foundation pits. The trestle through Yorktown swamp is now in a condition that can be filled up; this swamp trestle has been a source of trouble since the road was first constructed. In general, the road is in good order. There are defects, as most always, but nothing that gives cause for serious disquietude. Undoubtedly the rebuilding of masonry, repair of bridge floors, and the betterment of track adjustment will soon be attained. The passenger depots are well kept, nicely furnished in most instances, and comfortable for public use.

NEW YORK, May 27, 1889.

WILLIAM O. HUDSON, Esq., *Secretary Board of Railroad Commissioners:*

DEAR SIR.—Your favor of May twenty-fourth received, with a copy of the report of the Inspector of the Board of Railroad Commissioners.

I beg to state to you that the company does not desire any hearing in the matter, and also to inform you that all the suggested improvements made by your inspector, have already been arranged for.

Very truly yours,

R. S. HAYES,

President.

NORTHERN ADIRONDACK RAILROAD,

A single-track road extending from Moira, where a junction is made with the Ogdensburg and Lake Champlain division of Central Vermont railroad, to St. Regis Falls, a distance of twelve miles, and the Northern Adirondack extension from St. Regis to Paul Smith's station, twenty-two miles. A further extension of about eighteen miles to Tupper's lake is under construction and about completed. The track is laid with steel rails and nearly all point-switches out of main line. There is considerable pile and trestle bridging of one or more bays, each of which was examined. Between Moira and St. Regis Falls are twenty-four pile and trestle openings, from one to twenty-four bays each, which, except five with masonry abutments, are all of hemlock timber six years old. The amount of timber is ample, but the age of material makes it desirable that it should be renewed or filled. A number of bays of trestle have been filled and it was stated by the president of the company that several of the largest would be filled very soon and those retained would be rebuilt. There is one Howe-truss deck-bridge over St. Regis river, sixty-foot span, having a strong bent at center. The trestle at south end has been filled narrowing the waterway. It is suggested that a stone pier be built or a new truss erected. All the openings have ties on them and a number have guard-rails. The sleepers are hemlock, large in size, and spaced about 2,600 per mile. There is little ballast on road-bed at the northerly end, and the track is in ordinary line and surface. The fences are in good condition. The extension south of St. Regis Falls is about three years old. The bridging of all descriptions other than a Howe truss near that station, is all of hemlock, in good life of timber, and ample in volume. The Howe-truss is a through-bridge of two eighty-foot spans on a timber pier and abutments. The lower chords are opening at the ends of strands, and a bent has been placed under each first panel point. A bent at center was advised for temporary use. A new bridge of stronger design is suggested. Near Shanley are three bays of hemlock trestle in good life. Between Santa Clara and Paul Smith's station, is a pile bridge over St. Regis river. It has six bays of ten-foot spans, and one of twenty feet, all on log cribbing piers and abutments. It is a good structure of its kind. Over Quebec river are nineteen bays of pile bridge in good condition. About the same number of bays have recently been filled. Near Paul Smith's station are twenty-four bays of hemlock trestle of ample strength. The road south of St. Regis Falls runs along bottom lands, occasionally crossing sand knolls. It is a curved line, with a few short steep grades. The superstructure is in better adjustment than on the northerly end of the road, owing in part to the sand-ballast and road-bed. No fences are built south of St. Regis; the line running only through wild lands, mostly covered with timber. The station buildings are the same as reported in 1887, except at Santa Clara a new frame depot has been erected.

NORTHERN CENTRAL RAILROAD OF PENNSYLVANIA.

This company leases the Elmira and Lake Ontario railroad from Chemung junction with the Erie about four and a half miles west of Elmira to Canandaigua sixty-four and a half miles, and from Stanley to Sodus Point, thirty-three and a half miles; also the Elmira and Williamsport railroad from Erie junction one and three-tenths miles east of Elmira to Pennsylvania State line, a distance in New York of six and one-half miles.

The company has a trackage of five and eight-tenths miles over the Erie railroad, between above-named junctions. Two years have elapsed since the last examination of this property. The present inspection was made with care and the condition in which the permanent way was found, is creditable to all interested. There are roads of better original construction, but certainly none where more intelligent supervision of maintenance is exercised. It is not in perfect condition. There are a few small masonry structures which have failed in bond or foundation that are now held in place by timber-bents and struts, but these are thoroughly upheld. Other than these defects there is nothing on entire road out of good condition. A number of bridges have been rebuilt and in some instances iron girders are in place of wooden trusses. New wooden bridges have replaced those too old or of insufficient strength. Arch culverts have been built and large iron pipes frequently used for drainage and the openings filled. In all there are fifty-three short openings with masonry abutments from five to sixteen feet wide, aggregating 637 feet in length, and fifty-three separate pile and trestle-bridges from one to 100 bays each and four to sixteen-foot spans aggregating 3,500-feet in length. All sharp curves are strongly rail-bound. Point-switches and high switch-stands are used out of main line.

Pennsylvania State Line to Erie Junction.

The inspection began at Pennsylvania State line, between which and Erie junction are four Howe trusses through bridges, two of which are new, and all have trusses thoroughly inclosed and in excellent preservation. Guard-posts eighteen inches square are placed at each end of trusses at all through bridges. Those have already saved an iron bridge from being knocked down by a derailed car. Between same points are ten short openings for waterways, having strong abutments and girders of yellow pine and oak; all have good floors. The truss bridges and trestles of any length have inside T rail-guards twelve inches inside of main rail. All cattle-guards have been filled and slats substituted; the cross fences connecting them at highway crossings are pickets for a distance from the slats, and then post and board to side fences of railroad. These cross-fences are neatly painted or whitewashed. The superstructure is in excellent order. Oak or chestnut ties of large size are used on curves and at rail-joints on tangents. Cedar intermediate sleepers are used on straight lines. The roadway is neatly kept, and wire fencing strongly incloses right of way. New sixty-four-pounds-per-yard steel rail is delivered between State line and Erie junction.

Chemung Junction to Canandaigua,

Commencing at Chemung junction. The same general maintenance exists as on above division. A few small masonry structures built of local stone are not in perfect order, and have the stone-work shored to hold it in position. A twelve-foot span waterway near the junction is thus upheld, and another adjoining is in the same condition, but is to be filled. North of Horseheads is a six-bay pile-bridge, where was a truss two years ago. North of Pine Valley is a thirteen-foot span opening having poor masonry; strong bents are inside of abutments, and an under-farm-crossing has been filled after putting in a thirty-six-inch iron pipe for drainage. The long trestle-bridge with the Queen trusses over highways north of Millport, are in excellent condition. At Havana a new thirty-foot span through plate-girder has recently been erected in place of a trestle-bridge. An A truss new saw point has been removed and two spans of strong pile bridge substituted. The freshet of last June did considerable damage to this road, especially in Pennsylvania. Over Mill creek, where was a seventy-foot span of Bollman through iron-truss, is now a temporary trestle. This bridge was destroyed by the freshet in June. The abutments were not disturbed. On the grade along Seneca lake is a new arch culvert of eight-feet chords in place of a box-culvert washed away. South of Rock stream where was a forty-foot span McCollom truss, new abutments have been built and a plate deck-girder is to go in at once. North of Rock stream a broken box-culvert, under a heavy embankment has recently been dug out, repaired and bank refilled. Over Rock stream is a strong trestle of six bays and a 130-foot span deck Howe truss. At second and third panel points are strong pine bents on good masonry piers. The whole is closely covered and in excellent preservation. Galvanized steel sheets are used on roof of all deck-covered bridges. Over Big stream are five spans of trestle approach, one of which is over a highway, and is a strong girder rod-truss; then three 120-foot spans of deck Howe truss; then two spans of sixty feet, same type, and four bays of trestle approach. The trusses are covered. The second and third panel points of each long span, have strong bents on masonry piers. The whole is in good life. North of Big stream is a short opening, the masonry of which should be rebuilt. There is also another broken box-culvert lately repaired. There is a two-bay under-farm-crossing, the abutments of which are broken; well supported in position, but rebuilding of them is desirable. Over Keuka lake outlet is a covered deck Howe truss 121-foot span, built in 1866. The upper chords and all braces are new. It has (like all Howe trusses of length) auxiliary arches on each side of each truss. North of Benton is a very strong forty-foot span deck Howe truss, resting on good masonry abutments. North of Halls is a ten-foot span under-farm-crossing, with rail on stringers, which, with one other, are the only open floors on this division. There is scant head-room, but a six-inch raise of track would enable a floor to cover this opening. Over Flint creek is a 129-foot span covered deck Howe truss, built in 1878, and is in excellent preservation. Over a highway is a new fifty-one foot span through plate-girder, on heavy masonry abutments, where was a Howe truss. Over Canandaigua lake outlet are two spans seventy-two feet each, of deck Howe truss, with three bays of trestle approach at each end. This structure is in strong life and has good masonry abutments and pier. Thirteen miles of new seventy-pounds-per-yard steel rail have been laid this season. This rail is secured at the ends with thirty-six-inch steel angle-bars, with six bolts at each joint. The sleepers are in strong life except in a few places where ties were delivered at time of inspection, but not in place, as the time of section-men had been employed in repairing damages on the southerly end of the division and in Pennsylvania. The track is in fine surface and line, ditches well opened and roadway free from weeds, brush and debris. Cast-iron pipe is also used for surface drainage of road-bed in place of sluices between sleepers. The passenger stations, which in most cases are combined with a freight-room, are the same as heretofore reported, except the buildings at Himrods and Stanley have been changed and renovated. They are all in fair order and neatly kept. Semaphore signals are placed above the roofs of all stations where there is a telegraph service.

Stanley Junction to Sodus Bay.

This track is all laid with steel rail, strongly tied, well-ballasted and in good adjustment. North of Stanley junction are six bays of hemlock trestle, in which an arch culvert is being constructed, and trestle is to be filled. Over Flint creek is a trestle-bridge, 1,000 feet in length. At the crossing of creek, abutments are being built, and a fifty-seven-foot deck-plate-girder is to go in. The trestle work is in good condition. Following this are three separate eight, ten and eleven-foot spans for waterway, the abutments of which are of local stone, and some repairs are necessary. North of Seneca Castle is a new arch culvert, and north of Orleans is a twelve-foot span which has one poor abutment. Over Canandaigua outlet are twelve spans of thirty feet each. Fink girders on iron bents. These, being deemed insufficient, have auxiliary bents of yellow pine on each side of the iron bents, resting upon eight cribs filled with stones in the stream, and pedestals. The bridge was raised four feet to lessen depression in grade. A large amount of new trestle and iron-trussing has been done at Newark, and a long trestle-bridge filled, most of which was done prior to the inspection of 1887, and then reported. The masonry abutments for truss over New York Central railroad, and for the plate-girder over the street on the north, are completed, but the new trusses have not been placed in position. Several trainmen on deck of cars of the New York Central road have been killed by striking against the present bridge, which is too low. Warnings are in place, but two men have been killed since they have been in use. It is proposed to raise the Southern Central bridge, and the approaches to it, but the adjustment of cost has not been agreed upon. It is suggested, it being now opportune, that the elevation of this bridge to a point twenty-one feet above the Central tracks be consummated. North of Sodus Center is a twenty-two-foot span waterway twenty feet high. The masonry abutments are badly shattered, and held in position by timber-shoring.

It would be an improvement, and remove anxiety, if a substantial arch was turned, and road-bed carried over it. No change has been made in the depots on this division, except at Newark. The sidewalk on bridge over the canal, and trestle upon which the depot stands, has been widened, and is safer than heretofore.

OGDENSBURGH AND LAKE CHAMPLAIN RAILROAD.

(Operated by Central Vermont Railroad Company.)

The inspection of this road, 118 miles in length, began at the channel in Lake Champlain, the division line between Vermont and New York. No changes have been made in the outline of the property since the previous examination made in 1887, but in some particulars its physical condition has been improved. All of the iron rail has been removed, a number of bridges renewed in iron, a new depot erected and others renovated, and a number of miles of track raised with mostly such ballast as had accumulated on the angle of road-bed. About 120,000 sleepers have been renewed in the past two years, but these renewals have not been sufficient, resulting in a generally poorer condition of ties than when last inspected. A large tonnage of freight passes over the road and the sleepers wear out about equally as fast as they decay. It appears necessary, for a time at least, that the volume of renewals be increased until the whole attain a stronger condition. A considerable portion of the superstructure needs fresh ballast in order to better preserve the surface of track, and the alignment of track should be improved on a number of sections. The original construction of road-bed was ample and its grades remarkably well sustained. On the entire road there are but a few slight sags, occurring where heavy embankments have compressed, which a thorough rebalasting would efface. The bridge masonry is of an excellent character of work and nearly all of it is in good order. Most of the masonry at small structures noted as defective in the last report has been repaired and work of further rebuilding is in progress. Most of the truss bridges were built for a double track and were designed to have the outside rail of each track rest upon the truss. They are all deck bridges except one Howe truss of three short spans and a number of Queen and A trusses. The Burr and the straining-beam type of trussing was originally used for all the larger spans and where renewals have been made the same has been continued excepting in three instances where Howe trusses and an iron lattice have been substituted. Each of the truss bridges and, with few exceptions, all of the minor openings were examined. They were found in good condition except the following: At Ellenburgh is a three-span straining-beam truss, a renewal of one burned. One of the piers is defective, caused by action of fire. The stones are broken and bond of masonry shattered. Clamps are used to hold the pier in place and its base has been ripped since the last inspection. A new pier is very desirable or bridge rebuilt with one span, doing away with the defective pier and one short span. At Deer river are two spans of Burr trusses, forty-three feet in length, each with a pile bent at center. It is an original structure and by reason of ice flow and some weakness of the trusses, a new bridge is suggested. West of Lawrence is a Burr truss of same span. The track is on the south truss and an auxiliary straining-beam truss, affords additional support. Ice flow strikes the lower chord. A plate-girder deck bridge would admit of sufficient head room and is suggested. All of the timber trusses have been kept well housed and the timber is in a good state of preservation. East of Brashers is a deck Howe truss of three spans of eighty-six feet each. Each truss has auxiliary arches of boards and twenty-eight inches in depth. The track is now on one side of the bridge. The arches are somewhat warped out of vertical plane and camber of bridge a little below a horizontal line. The track should be thrown on center of bridge and arches secured in a vertical position. It is suggested that the defects be remedied or a new truss sufficient in itself be substituted. West of Norwood and in a number of other localities are Burr bridges with auxiliary straining-beam trusses on the side upon upon which the track rests. Great care is necessary to keep both types of trussing in union of action. It would be much better if these complications were avoided by a truss of sufficient strength to alone carry the weight imposed. Over Grass river was originally three spans of straining-beam trusses. Being insufficient, intermediate piers were erected, and trusses of like kind placed under the longer ones. The foundations of the new piers have settled, and masonry is broken. The toe of the short-span trusses have pressed the bearing stones against each other, and probably will not move further, but the straining-beams have settled at the ends adjoining the new piers, and frequent reblocking between the two systems of straining-beams is necessary, forming a hipped arch. There is ample timber, and it is in good life, but there are elements of danger by reason of ice flow and the uneven working of the upper and lower trusses, which suggests that a new bridge be erected. The two original piers and the abutments are in excellent condition to receive a new bridge. Near Forest station is a thirty-foot span through Queen truss having some decayed timber in braces, and should be repaired. A Burr truss near Brushton requires new stringers and ties. West of Moira is a spur-braced opening of twenty-two feet span which has defective timber, and should be rebuilt. At many of the minor openings girder-rod trussed-beams are being substituted for spur-bracing, and a stronger system of flooring introduced. A few short openings have the rail on stringers forming an open floor, which is objectionable. In two instances plate-girder deck-bridges have been substituted for Queen trusses, and the long pile and trestle-bridge in Lake Champlain has been thoroughly rebuilt. The cribbing has been extended and filled with stone and new bents on piles in place of the poor work noted at the previous inspection. The station buildings are, with few exceptions, in good order, and at Clinton Mills a new frame depot has been erected. The station buildings at Chateaugay, Burke, Brushton and Lawrence, have lately been renovated and painted. At Brashers a good Queen Anne frame depot has been built. It has two waiting-rooms, is well furnished and every way desirable for a passenger station. The platforms of a number of depots, and waiting-rooms of others, require overhauling. With a few exceptions, all of the depots were found neatly kept.

PROSPECT PARK AND CONEY ISLAND RAILROAD.

With the exception of one or two minor defects in maintenance of way, none of which are at all serious, this property throughout is in excellent condition. It is a double-track road, excepting at the northerly end, there is a single track rising the steep grade approaching the Prospect Park terminal. A second track at this point is proposed this season. The easterly track near Van Brockelyn requires for a distance a renewal of sleepers, and some of the old caps in pile bridge crossing Coney Island creek should be renewed. There are new intermediate bents in this structure. They are provided for the necessary renewals and will soon be in place. Six thousand new sleepers will be used this year. Generally the superstructure is in good adjustment and the resurfacing, lining and the renewal of ties has just commenced. The large terminal depot at Coney Island is in excellent condition and surrounding grounds very neatly kept. At Van Brockelyn there is a small, but very neat depot and the new terminal at Prospect Park has been completed. This station is very perfect in all its detail and is a beautiful structure. It is well arranged to give prompt dispatch of trains and prevent overcrowding or injury to passengers. The waiting-rooms are unusually well furnished and supplied with all conveniences. The other stations or stopping places more properly, are low platforms in the center of the avenue through which the road runs. Highway signs at crossing avenues are all in place, and roadway neatly graded each side the tracks. All the cars, forty-four in number, have been repainted and trucks overhauled. The motive power has been put in same good condition. Sidings have been lengthened at the race-course and such other betterments provided as the increasing business demands. The care shown in maintaining and perfecting this property, is commendable.

ROCHESTER, HORNELLVILLE AND LACKAWANNA RAILROAD.

A newly constructed road between Hornellsville and Hornellsville junction with the Lackawanna and South Western railroad. It is a single-track line about ten miles in length, laid with steel rails, angle-bar fastenings and point switches. The road-bed is not very thoroughly ballasted, and superstructure is in ordinary line and surface. The roadway is well inclosed with wire fences having a top board. There are a number of waterways, and one sixty-foot span through pin Pratt bridge, all on good masonry abutments, also one eight-bay pile-bridge of strong construction. All openings have a good floor system. Arkport, Burns and Hornellsville junction have good frame depots, suitable for the local traffic. At Hornellsville is a very good frame passenger depot with covered platforms. If properly lined and surfaced the road would be in excellent condition.

ROME, WATERTOWN AND OGDENSBURGH RAILROAD.

Western Division.

The main line of this division extends from Suspension Bridge to Richland, 180 miles, with branches from Lawiston to Lewiston junction four miles, from Rochester to Ontario Beach eight miles, from Fulton to Woodward junction seventeen miles, and Syracuse to Pulaski thirty-seven miles; all single-track, laid with steel rails, except the Lewiston branch, which is iron, and little used. Its inspection was omitted.

Main Line.

Suspension Bridge to Richland. No change in its outline, but an improvement in maintenance. Since previous inspection in 1887 fifty miles of new steel rails have been laid. West of Charlotte there is very little thoroughly ballasted road-bed, and portions of the superstructure, more particularly between Charlotte and East Hamlin, are in ordinary line and surface, too much so for the benefit of the rails, some of which have become more or less bent or kinked. West of East Hamlin, a sandy soil and a better adjusted track prevails. Some sections are exceedingly workmanlike in this respect. Between Richland and Charlotte there is a better superstructure, especially in its adjustment. The road-bed is very well ballasted, fifty miles having been renewed this season, and in other respects a better permanent way prevails. Except on a short section, east of Ransomville, passed over rapidly to relieve a passenger train in distress, the openings of every description were examined. There are 190 short spans from four to eighteen feet wide, the greater part of which have good yellow pine stringers of ample size, chiefly new. A few have hemlock girders, but yellow pine is at hand for immediate renewals. With few exceptions, openings have good masonry substructures and the few pieces of broken masonry are well secured. All have good floors except a few which have not yet been renewed, and are destitute of guard rails. Many of these small abutments have been relaid since 1887. All broken masonry west of Charlotte has been relaid and where necessary has been repointed. This western division has a large amount of bridging of both wood and iron. A number of wood trusses, on the easterly end, have been rebuilt in iron. Over Salmon river is a new lattice-deck iron bridge of three ninety-one-foot spans, with plate-girder approaches at each end. The abutments and piers have been repaired. This was formerly a deck Howe truss. West of Pulaski is a thirty-foot span deck Howe truss, substantially new. A few floor beams have yet to be added. West of this, where was in 1887, a two-span Howe truss, is now two forty-eight foot spans plate-girder deck-bridge, with iron bent on stone pier at the center. The floor beams are ten inches square, yellow pine and closely spaced. West of Sand Hill is a thirty-foot span deck Howe truss, new since last inspection. West of Mexico, is a seventy-foot span, through Howe truss, built of Norway pine and fourteen years old. It has been covered until recently. No defect or failure of moment can be seen. It may be classed in fair con-

dition. West of New Haven is a sixty-feet span, new plate-girder deck, where was a Howe truss. The iron double-track trusses crossing Oswego river, are as before reported. A new floor has been laid on south track, and all iron work well painted. The whole is 900 feet in length and contains a number of fixed spans of two-truss Pratt pin-deck and through truss and two-deck swing draw spans of same character. The entire structure and its supports are in excellent condition. In Oswego city are two separate plate-girders over streets. West of Hannibal is a sixty-feet span deck lattice in good condition. Crossing Genesee river at Charlotte is a two-truss double-track lattice swing bridge of two 150 feet spans in excellent order. The viaduct at Oak Orchard creek, 780 feet in length, and that over Eighteen-mile creek, 390 feet long, are both in good condition and have recently been painted. The former has a new heavy yellow pine floor. Over Spring avenue, Suspension Bridge, is an iron through truss of sixty-six feet span. West of Sterling is an eighty-feet span through Howe truss, eight years old, crossing a mill pond. The timber is only in fair life, and another year will probably be about its limit of safety. A Howe truss east of Sterling junction, of thirty-feet span, is quite old and has defective members. A new bridge is suggested. Crossing Irondequoit bay is a 100-feet span through Howe truss, sixteen years old, and uncovered. Its age is against its being much longer retained. There are fifteen other Howe truss bridges, all of which are in good preservation of timber and have good substructures. There are ten separate trestle bridges on the main line of this division. One of 300 feet in length has been filled. A number have been rebuilt in yellow pine, and in two cases, where a highway or stream required trussing, a strong Howe bridge has been erected. A twenty-two bay trestle, twenty-four feet high, west of Pulaski, has hemlock bents in which the sills are rather too old. This and all other hemlock is to be replaced with yellow pine, most of which is delivered along the road and at central shipping points. A similar trestle west of Oswego is constructed of hemlock. There is a Queen truss of thirty-feet span over a stream in this trestle which is a little too old. West of Red Creek is a new yellow pine trestle of five bays. These new trestles have heavy floors. West of Wallington are thirty-five bays of hemlock trestle of fifteen feet spans. It is on a curve, and a small stream passes under it. The timber is only in fair life. The construction of a culvert and filling of this trestle is suggested.

The sleepers on the main line of the western division, are, as a whole, in strong life. The road-bed between Richland and Charlotte is mostly well ballasted, and between Charlotte and Suspension Bridge as before stated. The roadway is neatly kept, for its full width, and road-bed well ditched. Fences are not well kept up, and yet on parts of this division they are in good condition. The adjustment of track is very good indeed east of Charlotte. Cook switches are mostly used out of main line, but a few stubs are yet in the road. Each of the way stations were examined. Red Creek and Lewiston-on-hill are new frame depots; New Haven, East Hamlin, Kendall and Lyndonville, are very neatly kept, and in excellent condition. The depot at Charlotte has been moved 450 feet west of the New York Central railroad crossing. The station buildings at Sand Hill, Mexico, Scriba and Parma, are in poor order and need more or less repair; Hamlin, Newfane, and a number of other depots have recently been painted. A few of the way-stations would be more comfortable if a little more care in keeping them clean was exercised. The sidings at Pulaski, Red Creek, Koss, Parma and Waterport have each been extended the length of fifty cars.

Rochester Branch.

Since the inspection of 1887, this branch has been extended across Genesee river to a central location in the city of Rochester, otherwise it is about the same as then reported. A number of small openings or cattle-guards have been filled. There is one pile bridge of three bays in good order, and four short single spans of trestle bents with lagging, two of which are in poor condition. Nine bays of trestle, forty feet high, built of white pine, and having masonry piers under sills of bents, are in good order. The line is at points sharply curved, which is to be relieved by throwing the track into the projecting bluffs along the Genesee river. The deck iron bridge over this river is of several spans, Pratt pin and lattice trusses, and plate-girders 700 feet in length. It has good masonry substructures and a strong floor. On the west end is a long hemlock trestle, which has been filled about half its length. The sleepers are in good life and track very well adjusted. At Windsor Beach there is a long, covered platform in connection with the depot, for the accommodation of the large summer travel between Rochester and the lake shore.

At Brinker place, Rochester, is a good frame depot, as before reported. In Rochester there is a fine brick passenger station, well furnished and conveniently arranged,

Syracuse Branch.

Formerly the Syracuse Northern railroad. It has been greatly improved during the past two years, especially in the life of sleepers and track adjustment. As yet little has been done in ballasting, which is now the great need of the superstructure. In making sleeper renewals cedar is used on tangents and oak on curves. Cook switches are used at all sidings out of main line. Care is taken to keep the ditches in good condition, aiding much in maintaining line and surface of the track, which is so destitute of good ballast. Roadway is neatly kept, and fences for the greater part fairly maintained. Considerable new snow fencing has been erected. The bridges are in various conditions. In Syracuse a fifty-feet span Howe truss has been discontinued and opening filled. Over the Oswego canal is a 150-feet span, double intersected lattice, which has been reinforced, as recommended by your Honorable Board. North of Clay is a fifty-feet span low through Howe truss, the timber in which is quite too old. A new bridge is desirable. Over Onondaga river are two spans, through Howe truss, about 110 feet each, and one span of 100 feet; also two spans of swing-draw, each about fifty feet. The three long spans, are about fifteen years old and show signs of yielding longitudinally at joints of strands in lower chords. These defects, coupled with the age of the bridge, suggest new trusses. To secure

absolute safety, bents at third panel point of each of these spans, would be advisable. The water is shallow and current sluggish. The draw-truss is new. North of Hastings is a fifty-foot span through Howe truss on bents. Timber is at hand to renew this bridge. North of Parish is a 120-foot span through Pratt pin-truss, in good order except its floor. New bridge ties are at hand for repairs. North of Union Square is a twenty-five-foot span through Howe truss, ten years old, one end brace and the upper chords should be renewed. The swing plate-girder over the Erie canal at Syracuse, appears to be in fair condition. There are twenty-one short span openings, from four to thirteen feet wide, which have generally, good abutments; some of them are newly rebuilt. Two openings have broken masonry, strongly upheld with bents, or timber shoring. There are four trestle bridges from one to seven bays each, also fifteen bays of pile bridge, all in good condition. The station buildings are as reported in 1887, except the Parish depot has been enlarged. The depot at Liverpool is quite dingy, otherwise the stations on this branch are in good order.

Phoenix Branch,

From Woodard junction, out of Syracuse Northern railroad, to Fulton and junction with New York, Ontario and Western, whose track is used into Oswego. A further improvement or more complete construction of this new road has been made since 1887. The sleepers have been increased in number, about one-fifth, the road-bed ballasted and widened, and track more thoroughly adjusted. Slat cattle-guards have been put in at road crossings, and in the timber openings yellow-pine stringers have replaced those of hemlock. Over Oneida river are ten bays of pile bridge approach, with new intermediate bents followed by two 100-foot spans of through Howe truss, resting on new yellow pine double bents on crib-foundations, and then forty bays of pile bridge approach, which also has intermediate bents. The trusses are in good life, and the pile approaches are to be filled at once. There are fourteen single short openings for waterways, and under-crossings, two of which have pile bents, the others have bents and lagging of hemlock. Most of these need rebuilding which, it was stated, would be done this season with yellow pine. The fences are considerably neglected, and long stretches of roadway are unprotected. Occasionally narrow banks need to be widened. The work of rebalasting was not fully completed at time of inspection. At Woodard junction is a small transfer station. Phoenix has a good frame depot, neatly kept and comfortably furnished. At Fulton (Broadway station), where junction is made with the Ontario and Western road, there is a well-furnished depot.

Eastern and Middle Division,

From Rome to Massena Springs, 150 miles; Cape Vincent branch, twenty-four miles, and Carthage, Watertown and Sackett's Harbor branch, twenty-nine and a half miles.

Main Line,

Rome to Massena Springs, single-track, steel rails, angle-bar connections, and alternate suspended joints. The rail is in good condition throughout, except between Richland and Watertown, where is the greatest volume of traffic. The rails here are somewhat, but not seriously, worn. Cook safety switches are in use at nearly all sidings out of main line. Between Richland and Watertown, five miles of road-bed, and from Evans' Mills, easterly forty-five miles, have been ballasted this year in the average amount of 2,000 cubic yards per mile. One hundred and sixteen thousand sleepers have been renewed on the entire divisions in 1888 and 1889. They are, as a whole, on main line and Cape Vincent branch in strong life. The track adjustment between Rome and Canton is of a high order. East of Canton, owing to want of gravel, a poorer line and surface prevails. Generally the fences are well kept up, but occasional long stretches need repair. The entire roadway, for its full width, is orderly and free from underbrush, noxious weeds and old-track debris. The condition of each truss-bridge is as follows: At Rome is a 120-foot span of through Platt pin-truss in which are a number of too old floor beams. The rail lies directly on them. It was stated that an entire new floor was to be laid. All through trusses have the prescribed guard-posts. Between this bridge and Taberg is a new deck-lattice of seventy-foot span, where was a Howe truss. Also a new through Howe truss of seven fifty-foot spans, in good order, except the west pier is being undermined and requires protection. West of Taberg is a forty-foot span through Howe truss, which has too old upper chords. These Howe trusses are built of yellow pine. The three last structures have strong floors. East of McConnellsville is a new lattice-deck of two eighty-foot spans, where was a Howe truss, when last inspected. East of Camden is a newly-built through Howe of fifty-foot span. East of this is a sixty-foot span low through yellow pine Howe truss, so old in life as to suggest a new bridge, or extensive repairs. Still further east is a sixty-foot span low through Howe truss, built of yellow pine. The trusses are old and have bent supports at second panel points. A new bridge is desirable. West of Williamstown is a seventy-foot span deck Howe truss forty feet high. The timbers are somewhat old. The northerly lower chord requires a new strand. Another season will necessitate further repairs or an entirely new structure. East of Abion are two deck-spans of sixty feet each, new lattice-truss in place of a Howe bridge, when last examined. West of Richland is a forty-five feet span low through Howe truss, twenty-five feet high. The masonry is broken and falling, but is shored up. The cords of truss are yellow pine and show age. The rebuilding of the entire structure is suggested. East of Pierrepont Manor are three spans of forty-four feet each, plate-girder deck. At Adams is a new plate-girder deck of four sixty-feet and one twenty-seven feet spans, where was a Howe truss in 1887. Over Black river, west of Watertown, are two 106-feet and one 150-feet spans of Pratt-pin through trusses, newly painted. All these bridges have strong floors. East of Evans' Mills is a thirty-foot span low through Howe truss, in poor life, of timber. A bent at the center was suggested at the time of inspection, and a new bridge was ordered by the officers of the road. East of Philadelphia is a fifty-foot span

similar truss on bents at second panel point. Here, also, a new truss was directed by the officers of the road, to be built at once. Over Indian river is a new through Howe truss of 105-foot span. East of Keene is a thirty-foot span through Howe truss, twelve years old. The timber looks in fair life. It is advisable to open the packing of chords and examine carefully. East of Gouverneur are three spans of deck Howe truss, about seventy-five feet each, on bents at second panel points. The trusses are old and light for loads imposed. Ice-flow is an objection to bent supports. A new bridge is suggested. Over a highway, east of this last bridge, is a thirty-five-foot span through Howe truss, in but fair life of timber. A careful examination by probing is suggested. Over Grasse river are four spans of forty-four feet each, through Howe truss, seven years old. It is in good life and has strong masonry abutments and piers. East of this is a forty-foot span through Howe truss, nine years old. The chords are in only fair preservation. New floor-beams and a few braces are necessary. The next bridge east, is a thirty-two foot span, through Howe, in which is badly-decayed timber. It was stated that a new bridge would be erected in thirty days. Over Raquette river are seven forty-six foot spans, through Howe truss, on good masonry piers and abutments. The trusses are old, and renewal of the upper chords would seem to be necessary. West of Massena Springs is a plate-girder, eighty-nine feet clear span with strong abutments. It is a substantial structure. Many of the cattle-guards have been filled and slats substituted. There are one hundred and sixty-five short single spans and two short double spans for under-crossings and waterways, from four to sixteen feet wide. Except between Norwood and Massena Springs, these have masonry supports, most of which are of a suitable character of work and in good order. About ten openings have poor, falling masonry, which should be relaid. A number have been rebuilt since the last report. Where the new ballast has been applied to the road-bed, the stringers at these openings have been raised and blocking used between wall-plates or masonry and the under side of stringers. All stringers are now, or will be yellow pine, before the close of this season, and each opening will have a competent floor. Between Norwood and Massena Springs the openings are trestle bents of hemlock and hemlock plank for lagging. These are but four years old and yet in good life. Two or three openings have girder-rod trusses. Additional sidings of 1,000 feet in length have been laid at Camden, Gouverneur, Evans' Mills, Adams and Adams Center.

At Watertown 100 feet in length has been added to the stone freight-house. Each of the station-buildings were examined. Taberg wants repairs; Camden, Richland, Adams, Evans' Mills and DeKalb junction, are old depots much worn and dingy; McConnellsville, Williamstown, Keene and Gouverneur have lately been painted. At McConnellsville is a new water-tank and stand-pipe. Pierrepont Manor, Sandford's Corners and Massena Springs, have new frame depots. They are well arranged, comfortably furnished, and neatly kept. The other depots are as before reported, occasionally one was noted as untidy, a defect easily remedied.

Cape Vincent Branch,

Single track, all new steel rail, laid in part since last inspection, angle-bar connections and alternate suspended joints, with generally strong sleepers and fairly adjusted superstructure. North of Chaumont is a quarter of a mile of too old sleepers and poor line and surface of track, which might be improved by more careful ditching, there being so little, if any, ballast. The fences are neglected and in poor general condition. Over Black river at Watertown junction are three spans of about eighty-five feet each plate-girder deck, fully completed since previous inspection. North of Three-Mile Bay is a new forty-foot span through Howe truss. South of Brownville is a forty-foot span, same style of truss, two years old. At Chaumont is a three-truss spur braced straining beam trestle twenty-five feet high and 400 feet long. It has double bents and masonry abutments and piers. The masonry has lately been repaired. The trestle is three years old, built of white pine and is in good condition. This bridge is to be a plate-deck girder. South of Limerick is a forty-foot span deck Howe truss. There is a straining beam under lower chord and a spur brace heeled against a rock ledge (which forms the bridge abutment) and reaching to third panel point of truss. The bridge is amply reinforced for another year's service. South of Cape Vincent is a forty-eight-foot span through Howe truss, the upper chords of which are too old and decayed and in danger of crushing. A bent was advised when examination was made, and its condition strongly suggests a new bridge. There are thirty-two short openings from four to twenty feet wide. The latter have bents at center. The single short spans have all new yellow pine stringers, but as yet no guard-rails; a deficiency to be supplied this year. A number of openings require the rebuilding of masonry.

At Brownville a new frame depot has been built, the station-buildings at Limerick and Three Mile Bay have been remodeled and painted. At Cape Vincent a new passenger-room has been added to the train-shed.

Carthage, Watertown and Sackett's Harbor Branch,

A single-track road, with wide difference of maintenance between the Carthage and Watertown, and the Watertown and Sackett's Harbor sections. The former is laid with steel and the latter with iron. No particular change is noticeable in the maintenance of this property. It is in about the same condition as in 1897. Between Carthage and Watertown the superstructure is kept in fair life of ties and track adjustment. The roadway is clear of brush and weeds, and the fences in good condition. Between Watertown and Sackett's Harbor a much poorer permanent way prevails, and the iron rails are somewhat worn. The track for the greater distance was full of grass, and the roadway untidy, with the weeds and brush uncut. The fencing, which is mostly wire, is in fair condition. The sleepers are generally in good life, but track adjustment quite ordinary. This end of the road is little used. Over Black river, near Carthage, are two 100-foot spans, through Whipple trapezoidal trusses, with link lower chords. The piers have been repaired, as reported in 1897. Near Sackett's Harbor is a seventy-foot span bridge, similar to the one last mentioned. The abutments are in good condition. These two

bridges constitute the trussing on this branch. There are thirty small openings, from four to eight-foot spans, having bent or masonry supports, a number of which have broken masonry shored up, suggesting relaying. Nearly all stringers are hemlock, to be replaced by yellow pine, as on other portions of the road, and a better floor system is to be added. There are no changes in the depots, excepting at Sackett's Harbor, where is a new one, replacing the former building recently burned.

Eastern Division,

Utica to Ogdensburgh, 134 miles, Clayton branch, sixteen miles, and DeKalb branch, Ogdensburgh to DeKalb junction, nineteen miles; all single track.

Main Line,

Utica to Ogdensburgh, all steel rails, except between Morristown and Ogdensburgh, eleven miles, which is iron, considerably worn and joints occasionally battered. Quite a number of track bolts are gone. Subsequently sufficient steel rail was laid to remove all battered iron, and the missing track bolts were replaced. The steel rail is in good order. That portion between Utica and Remsen is somewhat worn but not seriously. North of Remsen to Morristown, the rail is in good condition. The sleepers on entire line are in better life than when last inspected and track adjustment is workmanlike. There is a large number of single span openings, a few with bent abutments, but chiefly masonry substructures. These openings had, two years ago, mostly hemlock stringers and nearly all bents were of the same material. During the past season yellow pine has been substituted and enough more is delivered to complete the removal of all the hemlock on the main line and branches. Where this work has been done, good floors have been laid, the stringers are ample and the openings look substantial and durable. There are about three hundred of these shorter openings from four to fifteen feet in width, some of eighteen and twenty feet and a few of three to six bays each. Over a highway north of Marcy is a sixteen-foot span, which has too light stringers. Cattle-guards are generally filled up. Twenty-five of the short span openings from four to twelve feet each have broken and falling abutments which should be relaid. Nearly all of these are shored up. North of Philadelphia all this class of masonry was laid dry. Great improvement has been accomplished in the building of stronger iron trusses. There is but one wooden truss on that portion of the division formerly the Utica and Black River railroad. It is a Queen truss, at Theresa, and is to be renewed in iron this season. The bridges on the main line are as follows: At Utica, crossing the Mohawk river, are two spans of 120-foot Whipple through truss with cast-iron compression members, and a 125-foot span of Phoenix column, Whipple truss; the whole on substantial masonry abutments and piers. The ties are small and worn. A new floor is suggested. Over a highway north of Marcy is a thirty-foot span, Phoenix column, Whipple through truss in good order. North of Stittsville is a sixty-six-foot span Whipple arch truss with cast-iron compression members. The lower chord has been reinforced with two one and one-half-inch truss rods in each chord. Near Holland Patent is a forty-foot deck Pratt pin truss over a highway. It has good abutments and floor. South of Remsen is a sixty-six-foot span deck Whipple truss with cast-iron compression members in good order. North of Remsen is a new thirty-seven-foot span plate-girder deck, where was a Whipple arch-truss when last inspected. Immediately north of this, is a similar plate-girder, in place of a Whipple arch-truss. A twenty-foot span, spur-braced straining-beam truss of hemlock is the next bridge. Yellow pine is at hand for renewal. Over the Black River canal is a new seventy-foot span plate-girder deck, where was a Whipple truss. All these have good floors. Over Sugar river, is a new Pratt pin-deck bridge of 135-foot span, where were two spans of Whipple truss with cast-iron compression members. North of Glensdale, is a fifty-four foot spur Pratt pin-truss newly painted and in good order. North of this is a seventy-five feet through Pratt truss. It has additional I beam track stringers, a new floor, and the iron work newly painted. South of Lowville, is a 108-foot span deck Whipple truss and a forty-four feet similar truss adjoining. A new cast-iron angle, between end brace and upper chord has recently been put in the east truss of the long span. South of Castorland is a forty-six-foot span, Phoenix column, Pratt pin truss, newly painted, and a new floor. Crossing Deer river are three eighty-feet spans of Pratt pin through truss, a 100-foot span Whipple through truss with cast-iron compression members, and two sixty-foot spans of Pratt pin through trusses. The 100-foot span has two one and one-half inches rods in lower chords. All the floor beams in these trusses are reinforced by a suspended I beam under each. The substructures are strong masonry. Over Black river in Carthage are five spans of seventy, and two of eighty-one feet Whipple truss, with cast-iron compression members. The floor beams are reinforced with sub-beams. South of Sterlingville is a seventy-six-foot span through Whipple truss. A casting at the bottom of first strut is broken and truss on bents. It is to be repaired. South of Philadelphia is a similar truss of seventy-four-foot span. These last two have cast-iron compression members. North of Philadelphia is a 100-foot span deck Phoenix column Whipple truss eighty feet high. The floor beams of this and all the Whipple bridges have been reinforced in the manner before stated. This bridge has double I beam track stringers.

At Shurtliff's Mines is a new thirty-four-foot span plate-girder deck, with new masonry abutments, where was a Queen truss. Over Indian river, near Theresa junction is a 102-foot span Whipple Phoenix column truss, with wood track stringers resting on iron floor beams. The hangers of floor beams have recently been increased. North of Theresa is a twenty-five-foot span plate-girder deck. The north abutment has failed and truss rests on bent. North of Redwood is a forty-foot span deck Pratt pin truss, with Phoenix column. The masonry is only in fair condition. North of Brier Hill is a similar span, newly painted. The abutments are dry masonry in poor order and shored-up. The last named trusses have reinforced floor beams. All the Whipple trusses, with cast-iron compression members, are carefully guarded against overload-

ing. Some of the angle castings have cracked and are held in place with clamps. All the depots were examined. Marcy is now a regular station, and a long siding has been laid. The stations at Stittville, Trenton and Trenton Falls have been repainted. At Boonville the passenger station has been remodeled and refurbished. The other depots are as reported in 1887. They are in a fair repair, but dingy and crudely furnished.

Clayton Branch.

Since the inspection of 1887, the rail on this branch has been changed from iron to steel. The sleepers are well renewed, and all in good life. The road-bed is ballasted to some extent and track in good line and surface. All fencing is well kept up and roadway clean and orderly. Each of the short span openings were examined. There are thirty-four of these, from four to twelve feet wide, all with good masonry abutments and mostly hemlock girders, soon to be changed to yellow pine. An eleven-foot span has I beams for girders. Two spans of nineteen feet each have girder rod trusses. The masonry at one of these, twenty feet high, is broken and upheld by shoring. There are no truss bridges and but one trestle, which is near Clayton. It is at a point where was a twelve-foot arch culvert, but the action of water in the clay soil has worn a wide, deep channel.

There are now thirteen bays of trestle forty feet high. The bays are twelve-foot spans. The bridge is seven years old, and built chiefly of hemlock. At present the trestle is in fair life. Each of the depots on this branch has been newly renovated and painted. The passenger station at Clayton has been changed to one large waiting-room, and comfortably furnished.

DeKalb Branch.

This branch is in much better condition than when last examined. Fifteen miles new steel rail have been laid, which removes all the iron from the branch. The sleepers are in good life and road-bed well ditched. Except two miles near DeKalb where there is little, if any, ballast, the line and surface of track is in good order. There are light sags, which a thorough ballasting would remove, as the track adjustment could be perfected and more readily maintained. There are thirteen separate openings from four to ten feet wide, which, with one exception, have fair masonry abutments. Two trestles, one of two, the other of five bays, twelve feet in width have masonry piers and abutments, both in good order.

Adjoining a Howe truss are four bays of trestle work, and at another point a like structure, all yellow pine in good condition. A number of the small spans have hemlock stringers. Though not so stated, it was inferred that yellow pine would be substituted as on other portions of the line. There are three separate trestles of seven, thirteen and sixteen bays each, which are to be filled this season. South of Rensselaer Falls is a ninety-foot span through Howe truss, with good masonry abutments, all of new construction. Over the Oswegatchie river are two spans of through Howe truss, 118 feet each, in fair preservation. The lower chords show a little opening at the ends of strands, but nothing serious. For flood-bridge over the same stream is a sixty-one and a thirty-eight feet span, low through Howe truss, three years old, all in good condition. The depot at Rensselaer Falls needs renovating. At Heuvelton is a better station and comfortably kept.

In general there has been a steady improvement of the permanent way and station buildings on the Rome, Watertown and Ogdensburg railroad and its leased lines, especially during the last two years.

SARATOGA, MT. MCGREGOR AND LAKE GEORGE RAILROAD.

(Three feet gauge.)

A careful examination was made of this property. It is operated only during the summer months. There are a number of pile and trestle bridges, mostly on the heavy grade, climbing Mt. McGregor. On the table-land are, first, a trestle bridge of nineteen bays, fourteen feet wide, which has been overhauled this season, and all decayed timber removed. The next bridge is an under-highway crossing of three bays of piling, under repair. The last trestle on the low lands has recently been filled, after constructing a culvert for drainage. On the mountain grade are the following trestles:

No. 8 consists of nineteen bays of trestle, forty feet high, on a sharp curve. It has lately been thoroughly repaired. The sills of bents rest on masonry piers.

No. 9 has twenty-three bays, is in fair life of timber, and has masonry piers under its sills.

No. 10 has fifteen bays, which have been repaired recently, and a number of new sills put in. A further repair of stringers was suggested, which was done.

No. 11 is on a curve of 360-feet radius. The ties are tapering, and on inside of curve reduced at the end to two and a half inches thickness. The stringers are three six by twelve inches, on each side. The rail rests over the inside strand. The tapering ties at inside of curve are not held out in sufficient thickness to distribute the weight imposed on the three strands. The inside strand, owing to bending of the tie, carries a large majority of the weight imposed. New sills and sway braces were yet to be put in, which has probably been done.

No. 12 is on a sharp curve, has twenty bays, each fourteen feet wide, and is in fair condition. It is suggested that trestles Numbers 10, 11 and 12 be filled before the opening of another season, or be supplied with new floors. Also, that blocking be used for part of the elevation of outer rail, thus enabling a thicker tie at the bearing of inside rail. Five thousand sleepers have been renewed this spring, and a number more new ties were to go in during the season. The fish-plate connection of rails appears light, as they are occasionally found broken. On the mountain, the rail has crept down the heavy grade, and at time of inspection many joints were suspended between sleepers. The strap fastenings are insufficient to bridge strongly between ties.

and sleepers should in all cases be placed at rail joints. On the sharp curves the rail, which is all iron, is considerably worn, and a renewal is suggested. The road is inclosed with wire fence, generally well kept up, and on the low lands the roadway is in neat order. Great care is taken of the trucks and brakes of the equipment, which, with the locomotives are thoroughly overhauled each year before opening of the road.

SCHOHARIE VALLEY RAILROAD.

No change of consequence has been made in the betterment of permanent way on this road since 1887. The north abutment at Fox creek bridge, has been relaid and the deck plate-girders have been repaired where rivets were loose. The ties on these bridges need to be renewed. The girders are corroded and should be painted. An eight-foot span waterway, has a badly decayed stringer, with a plank spiked on each side, and masonry is broken and falling. The track is in very ordinary line and surface, sleepers in fair condition, and road between the rails more or less grassy. The covered 100-feet span through Howe truss over Fox creek, before referred to, is yet in good preservation. At Schoharie junction is about a quarter of a mile of iron rail, all there is in the road. It is overworn, bent and somewhat broken. The fences are poorly maintained. The road is only about four miles long, and is operated in connection with the Middleburgh and Schoharie railroad. The depots at Schoharie junction and Schoharie are as before reported.

SEA VIEW ELEVATED RAILROAD.

A double-track elevated railroad, about one mile in length, connecting West Brighton with Brighton Beach, Coney Island. As yet there has been no renewal of that portion of the road elevated on piles, and to which particular reference was made in the report of last year. All of the piles at the surface of the ground are more or less decayed, many of them so much so as to afford little if any support. They are decayed about eighteen inches above and the same length below the surface of the ground. To some extent this defect has been remedied by driving yellow pine scantlings on two opposite sides of the piles and spiking them strongly above and below the decayed portion of the timber. A number of the bents have additional support by resting a timber strut on blocking and wedging the upper end under the caps. It is proposed to box in the decayed portion of the piles, extending the boxing well above and below the point of decay; spiking the whole strongly to the piles and filling the interstices with hydraulic cement. If such treatment is thoroughly applied, possibly an entire renewal of these defective bents may be safely postponed for a season. Other than this defect the road is in fair condition. The iron trusses and girders over avenues and the Prospect Park and Coney Island railroad are in good order, excepting that a coat of paint on the iron work is necessary.

The Board, in a communication, informed the company that it did approve its methods of strengthening its piles, as pointed out by the inspector, and sent its bridge engineer to make an inspection, who reported as follows:

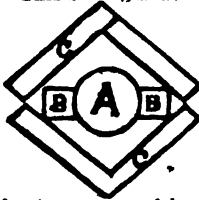
ALBANY, N. Y., June 7, 1889.

To the Honorable Board of Railroad Commissioners:

GENTLEMEN.—In accordance with your instructions I have examined the piling on the Sea View railroad, and have the honor to report as follows, viz:

The portion of the road supported by pile bents consists of a short strip at each extremity of the line. The piles being generally decayed at the surface of the ground have been strengthened in three different ways; first, by placing a new pile alongside of the decayed one; second, by placing a strip about three by six inches or four by four inches on each side of the decayed pile extending about three feet above the surface, and presumably as far below, these strips being spiked to the pile; and, third, by boxing in the pile in addition to placing the strips just mentioned alongside of it and filling the box with cement. The general plan appears to have been to box in the piles in each alternate bent, and treat the remainder as described in the first or second manner.

This boxing is done as shown in the following sketch:



A represents a section of the pile; BB are the strips on the sides of the pile, spiked thereto; CC are 2x12 inch plank spiked to the strips BB, and to each other, and forming the box to be filled with cement. These boxes reach about three feet above the surface, and are supposed to cover well the decayed part of the pile, though in one instance (in the fourth bent west of the first road crossing at Brighton Beach) the decayed part of the pile extends a foot above the top of the box. The boxes are supposed to be filled with Saylor's Portland cement, and are intended to hold the piles rigidly in place. The Board's inspector said of the manner of strengthening the piles: "If such treatment is thoroughly applied possibly an entire renewal of the defective bents may be safely postponed for a season."

The efficacy of such a course of treatment can only be judged by actual experience. If the cement-filled boxes were not doing the duty expected of them the fact would be indicated by the surface of the cement cracking and leaving a little open space around the pile as the latter swayed back and forth. It was for indications of this sort that I expected to look out more especially. As the road had been reported in operation since May fifteenth the presence or absence of such marks would show whether the boxes were doing their work. But I found that the road was not in operation, in fact at the time of my inspection two bays of the trestle were entirely removed from both tracks near West Brighton, pending repairs, so that trains could not possibly run over the road. I was advised by an employee that operations were to begin June fifteenth.

There were indications, however, that there had been some movement of trains over the tracks, especially near the east end of the road where the rolling-stock is concentrated, and that the cement is not fulfilling the duty expected of it. The surface of the

cement on top of the boxes, especially those near the east end of the road, shows cracks extending at right angles to the direction of the track, and there is also an open crack around the pile exactly as would be the case if the pile swayed back and forth slightly.

Furthermore, I found circumstances which led me to doubt whether the boxes were actually filled with cement as represented. In a number of instances the side strips (marked BB, in sketch) do not extend up to within from three to six inches of the top of the planks which form the sides of the box. The cement is leveled off even with the tops of the planks, thus leaving three to six inches of cement exposed above the side strips. By making a small hole in this just at the top of the side strips, a knife-blade can be worked in behind the planks. I did this in about a dozen cases, and in every instance after getting through the cement and in behind the plank the knife-blade brought out nothing but loose sand. Moreover, I herewith submit a piece of cement from off the top of one of the boxes, which had been so cracked that it could be easily lifted out, and in which the transition from hard cement on top to loose sand underneath, can be observed. From this I am inclined to believe that in many, if not all cases, the boxes have simply been filled with loose sand, and a thin layer of cement plastered over the top. Such a reinforcement of the piles is, of course, of little if any value.

All of which is respectfully submitted.

CHAS. F. STOWELL,

Bridge Engineer.

Having the report of the bridge engineer and the application of the company for a modification of its order, the Board replied: "The Board is satisfied that the method of strengthening the piles is not safe, and adheres to its former recommendation that new piles be substituted for those decayed."

The company replied by pointing out that the work of strengthening had progressed to some extent, and, in a manner, leading even to greater strength than at first proposed, and asked that the work of substitution be postponed until the end of the summer season. The Board then sent its inspector for a further inspection, with the result as set forth below.

To the Honorable the Board of Railroad Commissioners:

GENTLEMEN.—I beg to further report on the Sea View railroad as follows: The inspection of April 3, 1889, was made in company with J. L. Morrow, superintendent. Mr. Morrow stated to your inspector the manner in which he proposed to treat the piles in bridge at east end of road, which were decayed at the surface of the ground. The piles have not entirely lost strength, but three-eighths to five-eighths of sectional area is destroyed. Mr. Morrow stated that the decay extended below the ground about two feet. Your inspector did not dig up a pile, but rested on the information given. Your inspector does not remember seeing any piles treated as stated in Mr. Schroeder's communication of seventeenth of June, nor did the inspector sanction and approve of the method to be adopted. Always the reply was: "Possibly it may answer." The report of Mr. Stowell does not present the method adopted and applied the same as your inspector understood and reported May twentieth. The piles were to be boxed in well above and below point of decay, and all four sides of boxing firmly spiked to the piles in sound timber, virtually splicing the piles. Cement was spoken of, but did not enter into the matter as of any value to your inspector. It is respectfully suggested that the piles be thoroughly spliced by boxing with two-inch yellow pine plank, and that the four sides of these boxes be thoroughly spiked to each other and each side to the piles above and below point of decay. Also, that the box extend along the piles sufficient to keep them from wearing. As stated in report of May twentieth, such treatment, if well done, will possibly answer for this year.

Respectfully submitted,

T. W. SPENOER,

Inspector.

ALBANY, June 24, 1889.

Subsequently the Board received the following satisfactory letter:

SEA VIEW RAILROAD,
SHELTER ISLAND HEIGHTS, N. Y.,
July 15, 1889. }

The Honorable Board of Railroad Commissioners, Albany:

GENTLEMEN.—Your communication of the first instant was duly received. The piles have been boxed as directed, and our superintendent, who has the structure carefully examined daily, informs me that on a personal examination by him on Wednesday last, he found the supports all in good and firm condition, not giving away at any point.

Very respectfully,

F. S. SCHROEDER,

President Sea View Railroad Company, Coney Island.

STERLING MOUNTAIN RAILROAD.

This road is operated mostly for transporting ore, coal and iron for the Sterling Iron Company. A few passengers are carried, but no equipment for that purpose is provided. During the summer seasons excursions are run over the line from points and with the cars of other roads. No time-tables are issued, tickets sold or baggage checked, and the road is considered exclusively private property. The length of road is about eight miles, six and one-half of which is laid with fifty-six-pounds-per-yard steel rails; the remainder is laid with iron of same weight, the whole being in good condition. Three thousand new sleepers are provided for this year, which, with the renewals of last season, will bring the tying of superstructure to a strong condition. At least two-thirds of the road passes through the lands of the Sterling Iron Company, and no fences are used other than where private farm lands adjoin. There are a number of highway-crossings through the iron company's property, which, owing to the

increase of use, should be provided with warning signs. Generally stub-switches are used, but in a few instances points have been substituted. The superstructure is in quite ordinary adjustment, which, if improved, would be beneficial to the rolling stock in saving of repairs. Each of the openings were examined. Many of them have recently been strongly renewed, but the absence of a good floor system is objectionable; otherwise the openings in road-bed are well maintained. There are no truss-bridges, and the girder openings have spans from ten to twenty-four feet in length. The trestle at the northerly end of road has been filled. As a whole, this property has been much improved since the previous examination, which, with a better adjusted superstructure, would make a well-maintained road.

STONY CLOVE AND CATSKILL MOUNTAIN RAILROAD.

(Three feet gauge.)

This narrow-gauge road is in all respects well maintained. It is fourteen miles long and has a heavy rising grade from Phoenicia to the Summit, in a notch of the Catskill range, and then descends into the valley of Schoharie creek at Hunter's. The superstructure is in good adjustment and sleepers in strong life. Larger ties, and more per mile, are being used this season in repairs. Fifty small sluice-ways have been piped and openings filled, together with 200 feet of trestle at Phoenicia. Five bays of trestle twenty feet high has been rebuilt in yellow pine, and masonry abutments constructed at each end. Another trestle of three bays has been rebuilt in like timber. Two spans of Queen truss have been rebuilt. All openings have a good floor. The ditches are well opened and the roadway cleanly kept. The eighty-feet span through Howe truss at Phoenicia has a new floor. There are twenty-three openings from four to twenty feet in width, aggregating 172 feet in length; one, near Hunter's, twenty-six feet wide has two pine stringers twelve inches square under each rail. Standard cars are drawn over the road on narrow-gauge trucks, and more rigid girders are suggested. Care is exercised in keeping the brakes on cars and engines in good condition. The only depot of moment owned by this company is at Hunter's and is in good order.

SYRACUSE AND BALDWINVILLE RAILROAD.

This is a comparatively new single-track road, extending from Amboy, on the West Shore railroad, to Baldwinsville, six miles in length. It has been operated about four years. The track is laid with fifty-six pounds per yard steel rails, with angle-bar fastenings and alternate joints. Point-switches are used out of main line. The grades are slight and the curves easy. The line follows flat lands, and road-bed is mostly an embankment from three to eight feet high. The roadway is well inclosed with a five-strand wire fence, but is poorly kept; the weeds and brush not having been cut this season. The sleepers are in strong life and track in good line and surface. The road-bed is not entirely ballasted, but where this is done sand or cinders are used. There is one bridge, over Seneca river, at Baldwinsville. It has four sixty-feet spans through and two spans of plate-girder deck for double-track and stone masonry abutments and piers, and is well floored. There are five short-span openings in road-bed from five to twelve feet wide. Each of these has good masonry abutments and strong I beam girders. The floors are very good except they need guard-rails. At Amboy the West Shore railroad depot is used. At Baldwinsville is a very good frame passenger station well furnished.

TONAWANDA VALLEY AND CUBA RAILROAD.

To the Honorable the Board of Railroad Commissioners:

GENTLEMEN.—In the performance of duty your inspector examined the Tonawanda and Cuba railroad September 27, 1893. Its physical condition is such that this special report is necessary. The road is three-feet gauge, and now operated between Attica and Sandusky only, a distance of twenty-nine and one-half miles. There are two through Howe trusses, which constitutes all the truss-bridging on the road. They are in fair physical life, and one near Arcade, with pile-bridge approach, was designed to carry standard-gauge equipment. Freight car bodies of standard-gauge roads are transferred to narrow-gauge trucks, and thus car loads of thirty and forty thousand pounds weight pass over this road. Since the previous inspection little has been done to road-bed or superstructure. The short, deep sags in embankments between Attica and Curriers have not been sufficiently filled, and the clay cuttings on north end of road have slid in, filling the ditches. There are a large number of trestles, from one span of five feet, in cattle-guards, to six bays of fifteen feet each and up to twenty or more feet in height. These trestles are all of hemlock timber, and appear to be in good life of material; a number have been lately rebuilt. A large number of single span cattle-guards and water-ways have the rail directly on the stringer. Where ties are used they are widely spaced generally and destitute of tie-guards. The rail is of iron, thirty pounds in weight per lineal yard, and secured at joints with fish-plates. Very much of the rail is overworn, often the head one-half gone. The rail is much of it bent and kinked both vertically and horizontally; many joint-bolts are gone and the surface and line of track are in a seriously defective condition. The sleepers, during the last and present season, have to some extent been renewed by using second-hand ties from adjoining standard-gauge roads, but probably three-fifths of the sleepers are so far decayed that they will not hold track in gauge or sustain a spike in place. Possibly one-third of the ties can be lifted at outer end and will break off under the rail. No ballast of moment is under the superstructure. The foregoing representation of the maintenance of this road does not fully express its lamentable condition. A reduction to a low minimum of running speed, if operated at all, appears necessary until proper tying and track adjustment are accomplished. Your inspector respectfully suggests to your Honorable Board that a personal inspection of this property be made before any recommendations are presented.

THOS. W. SPENCER,
Inspector.

ALBANY, October 8, 1899.

B. W. SPENCER, Esq.,

Receiver Tonawanda Valley and Cuba Railroad Company, New York City:

SIR.—The Board herewith transmits a copy of a special report of its inspector as to the physical condition of the Tonawanda Valley and Cuba road.

It appears that the road is in such bad physical condition in many respects as to be absolutely unsafe to operate at other than a very reduced rate of speed.

The Board recommends:

First. That the rate of speed be reduced immediately to one not exceeding ten miles an hour at any time.

Second. That the defects pointed out by the inspector be remedied at the earliest moment practicable.

Should the receiver desire a hearing with regard to any of these matters, it will be granted upon application within ten days.

The Board further desires a communication to the effect that its recommendations, particularly that with regard to the reduction of speed, will be immediately conformed to by the road.

By the Board.

WM. C. HUDSON,

Secretary.

The following communication from the Rome, Watertown and Ogdensburg Railroad Company, relative to additions and betterments made since the date of inspection, was received too late to attach to the inspection report:

ROME, WATERTOWN AND OGDENSBURG RAILROAD COMPANY. }
OFFICE OF THE GENERAL MANAGER, }
OSWEGO, N. Y., December 7, 1899. }

* * * * *

First. In connection with the Rochester branch: We have in the city of Rochester a short distance east and across the tracks from the passenger depot, a substantial new brick freight house, 294 feet long, which we think is an important part of our facilities at that point, and a valuable addition to the property.

Second. Your notes on the Gouverneur bridge, on the main line: We have to advise you that a new three-span lattice bridge, proportioned to carry the new heavy consolidation locomotives, is now being substituted for the wooden structure, which we hope to have completed at the end of this month.

Further on, in the report on the main line: Your notes have doubtless been misleading, as, between Norwood and Massena Springs, the openings are all supported by first class masonry, and the stringers are all oak. There is no hemlock used in the construction of the openings on that part of the road; and in this connection I would say that yellow pine stringers have been provided for all openings where hemlock has heretofore been used, and are being put in as rapidly as possible, though all are not yet in.

Yours truly,

E. S. BOWEN,

General Manager.

MINUTES OF THE BOARD.

REPORTED IN PURSUANCE OF SECTIONS 2 AND 10 OF CHAPTER 353, LAWS OF 1882.

OCTOBER 1, 1888.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard H. W. Webb, vice-president of the Wagner Palace Car Company and John Adams, general superintendent of the Fitchburg Railroad Company, relative to heating cars by steam.

The Secretary submitted the unfinished business, under the rules, as follows:

Applications of the Long Island, Fitchburg, Western New York and Pennsylvania Railroad companies and Wagner Palace Car Company, for an extension of time for the heating of cars. Ordered laid on the table for the present.

(Ordered, that the letters of H. W. Sewall, W. H. Harrison and J. S. Elkins, relating to coupler for steam heating, be placed on file.

Application of the Steinway and Hunter's Point Railroad Company, also of the Riker Avenue and Sanford's Point Branch Railroad Company, for consent to suspend operations for certain months. Ordered granted.

Application of the Rockaway Village Railroad Company, for permission to suspend operations during winter months. Ordered granted.

Ordered, that Secretary examine what roads suspended operations last winter and report the same to the Board.

Letter of Roger Foster relative to the death of an Italian laborer on the Albany and Susquehanna railroad. Ordered, that Secretary write that on the 19th of July, 1887, about 8.30 P. M., one and a half miles west of Worcester station, Pulo Martine (No. 490), an Italian laborer, fell from a work train and was instantly killed.

Letter of F. W. Baldwin, superintendent Ogdensburgh and Lake Champlain railroad, relative to William Rowe, Jr. Ordered filed and closed.

Letter of J. M. Toumey, general superintendent New York Central and Hudson River railroad, relative to complaint of William Rowe, Jr. Ordered filed.

Letter of George D. Chapman, receiver of the Lackawanna and Pittsburg Railroad Company, in answer to complaint of Chauncey Hagadorn. Ordered usual course.

Letter of John Mackay, relative to application of Long Island Railroad Company for leave to suspend operations of the Bay Ridge branch. Ordered filed.

Letter of Henry G. Danforth, relative to John Brown's complaint against the Buffalo, Rochester and Pittsburg Railroad Company.

Ordered, that the Secretary write Mr. Reynolds, receiver of Lebanon Springs Railroad Company, that the Board desires immediate answer to its communication.

Letter of R. H. Meagley, president of City Railroad Company of Binghamton, relative to the integrity of the corporate rights of companies chartered since 1875, and previous to 1884. Ordered that letter, as dictated, copy of which is on file, be sent.

Adjourned until October 9th, 10 A. M.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 9, 1888.

The Board met pursuant to adjournment. All present.

The minutes of the previous meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Louis K. Brown, relative to flagging a crossing at Chatham, on Lebanon Springs road. Ordered filed and closed.

Answer of Buffalo, Rochester and Pittsburg Railroad Company to complaint of Thomas Brown. Ordered usual course.

Answer of the Rome, Watertown and Ogdensburgh Railroad Company to complaint of Forepaugh show, and reply of Mr. Coyle, agent, to complaint of exorbitant rate on freight. Ordered, that Secretary write Mr. Coyle that Board desires to know whether a release was given to the New York Central and Hudson River Railroad Company, and to the Boston and Albany Railroad Company, in consideration of a lower rate; also, whether there was a refusal or declination on his own part to give a release to the Rome, Watertown and Ogdensburgh Company.

Letter of Rome, Watertown and Ogdensburgh Railroad Company, being answer to complaint of Hayes and Ogden, relative to excessive rates on corn meal. Ordered usual course.

Reply of Chauncey M. Hage to answer of George D. Chapman, receiver of the Lackawanna and Pittsburg Railroad Company, to complaint of former.

Ordered, that notice, same as dictated, be sent to parties in interest for hearing on the 23d inst.

Letter of A. C. Cushman, relative to application of Long Island Railroad Company, for consent to suspend operations, during winter months, of Bay Ridge Branch of Manhattan Division of Long Island road. Ordered filed.

Letter of H. W. Webb, vice-president of the Wagner Palace Car Company, relative to steam heating. Ordered filed.

Commissioner Rogers submitted a report in the matter of an accident on the Manhattan Elevated railway on September 26, 1888. Adopted and ordered issued.

Ordered, that the bill of Thomas W. Spencer, for \$24.77 be approved.

Commissioner Rogers submitted a report in the matter of the application of the Long Island Railroad Company for consent to suspend the operation of the Bay Ridge Branch of the Manhattan Beach division, giving consent thereto. Adopted and ordered printed and issued as the order of the Board.

Adjourned until Monday the 15th, 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 15, 1888.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of Delaware and Hudson Canal Company, relative to the expenses of train crew, on inspection of the Rensselaer and Saratoga road, containing check for the same. Ordered filed.

Brief of Charles Parsons, Jr., vice-president of the Rome, Watertown and Ogdensburgh railroad, relative to complaint of the Watertown banks. Ordered that a copy of the same be sent to James A. Ward.

Letter of Oliver Watson, relative to the Lackawanna and Pittsburg Railroad Company. Ordered filed.

Letter of George Wilson, secretary Chamber of Commerce, advising that the Board may, for the future, have the use of the chamber. Ordered filed.

Complaint from the Sabbath Association of Binghamton, N. Y., complaining against Sunday traffic. Ordered filed.

Reply of Hayes & Ogden to answer of the Rome, Watertown and Ogdensburgh Railroad Company, in matter of their complaint against said road. Referred to Commissioner Baker.

Letter of Chateaugay Railroad Company, relative to steam heating. Ordered, that Secretary write and say that the Board notes what is said, but is hardly prepared to say that such a condition of affairs as stated in your letter, exempts the road from the provisions of chapter 616 of the Laws of 1887, requiring trains to be heated other than by steam.

Answers to letters of Board from the New York and Rockaway Beach; Brooklyn and Rockaway Beach; Brooklyn, Bath and West End; Prospect Park and Coney Island; Stony Cove and Catskill Mountain; Mount McGregor; Catskill Mountain; Kaaterskill; Rochester and Lake Ontario; Sea View; Chateaugay, and Brooklyn and Brighton Beach Railroad Companies. Ordered, that Secretary write and ask by what authority they cease operations, and to send them a copy of the law.

Ordered, that E. B. Watson be employed temporarily.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 16, 1888.

The Board met and gave a hearing, in pursuance of circular No. 57, in the matter of the adoption by the railroads of this State of a uniform steam coupler. Representatives of most of the railroads of the State and several inventors were heard on the subject.

George S. Gatchell, general superintendent of the Western New York and Pennsylvania Railroad Company, appeared in relation to extending the time in which roads should heat cars by steam.

C. L. Kimball, general superintendent of the North Shore and Canada Railroad Company appeared, in relation to steam heating of their cars, asking to be relieved from same.

Letter of H. W. Webb, relative to exemption from heating. Letter ordered sent as dictated.

Adjourned until Monday October 22, at 2 P. M.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 22, 1888.

The Board met pursuant to adjournment. All present.
 The minutes of the last meeting were read and approved.
 The Secretary submitted the unfinished business under the rule, as follows:
 Letter of H. W. Webb, vice-president of the Wagner Palace Car Company, relative to inspection of cooking stoves by Board. Ordered filed.
 Letter of J. M. Butler, president of the Brooklyn, Bath and West End Railroad Company. Ordered letter sent as dictated.
 Letter of Davy & Davy, attorneys for Rochester and Lake Ontario Railroad Company, inclosing copy of request of board of directors for leave to suspend operations during the winter. Application granted.
 Letter of E. L. Langford, secretary Brooklyn and Brighton Beach Railroad Company, saying that road had not and would not suspend operations during winter. Ordered filed.
 Letter of Charles A. Beach, general superintendent of the Catskill Mountain railroad, relative to suspension of that road in winter. Ordered letter sent as dictated.
 Application of Kaaterskill Railroad Company, for leave to suspend operations during winter. Permission granted.
 Letter of F. A. Schroeder, president of the Sea View Elevated Railroad Company, relative to suspending operations during the winter. Ordered filed.
 Letter of Austin Corbin, relative to suspension of Long Beach railroad during the winter. Ordered filed.
 Letter of Charles Parsons, Jr., vice-president of the Rome, Watertown and Ogdensburgh Railroad Company, relative to Watertown bank case. Ordered letter sent as dictated.
 Letter of James A. Ward, relative to Watertown bank case. Ordered letter sent as dictated.
 Letter of John R. Knight, relative to accident on Manhattan Elevated Railway, September 26th. Ordered filed.
 Letter of John Mackay, relative to suspension of the Bay Ridge Branch of the Long Island railroad. Ordered filed.
 Letter of Joseph S. Wood, relative to Washingtonville depot. Ordered letter sent as dictated. Also ordered letter sent to Chauncey M. Depew, president of the New York Central and Hudson River Railroad Company, in regard to the same case.
 Application of Court Street and East End railroad, for increase of stock. Ordered letter sent as dictated.
 C. E. Durkee, superintendent of the Adirondack railroad, appeared and was heard relative to extension of time in which to heat their cars by steam.

NEW BUSINESS.

Letter of Theodor Van Wyck, Mt. Vernon, relative to operation of New York, New Haven and Hartford railroad. Ordered letter sent as dictated.
 Petition of residents of St. Johnsville, for flagman at New York Central railroad crossing. Ordered usual course.
 Commissioner Baker submitted a report in the matter of Hayes & Ogden against the Rome, Watertown and Ogdensburgh Railroad Company. Adopted and ordered issued.
 Adjourned until October 23d, 10 o'clock.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 23, 1888.

The Board met pursuant to adjournment. All present.
 The Board heard George D. Chapman, Esq., receiver, and W. I. Washburne, Esq., counsel of the Lackawanna and Pittsburg Railroad Company in response to a notice dated October 9, calling upon the receiver or others interested in the road to show cause why the Board of Railroad Commissioners should not report the suspension of operations of said railroad to the Attorney-General, with a recommendation that a motion in the Supreme Court be made for the appointment of a new receiver. Notice had also been sent to the complainant, Chauncey Hagadorn, and others. Col. Rickerson appeared to represent the pecuniary claims of certain persons. No one appeared to represent Mr. Hagadorn or the residents along the road alleged to be inconvenienced by the cessation of operations. The financial condition of the road, as presented by Mr. Chapman, and the efforts made by him to put the road in a position to resume operations, satisfied the Board that no further action was necessary to be taken by it, certainly for the present.
 John R. Knight appeared before the Board, and was heard in reference to the Manhattan Elevated railway accident September 26th. A letter was ordered sent to F. K. Hain, Esq., general manager of the road, as dictated.
 The Board inspected the cooking stove of a dining car and a private car of the Wagner Palace Car Company, and approved of its construction, with some added safeguards, as set forth in a decision sent the company.
 Commissioner Rogers presented a report in the case of the accident at Magee's switch, on the Erie road, August 12, 1888. Adopted and ordered issued.
 Several railroad companies were granted extensions of time in which to heat cars by steam, as per decisions rendered.
 Adjourned until October 30th, 10 A. M.

WILLIAM C. HUDSON,
Secretary.

MINUTES OF THE BOARD.

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OCTOBER 30, 1888.

The Board met pursuant to adjournment. All present.
The minutes of the last meeting were read and approved.

UNFINISHED BUSINESS.

Letter of Charles A. Beach, superintendent Catskill Mountain Railroad Company, asking for leave to suspend operations of that road during winter months. Application granted.

Letter of L. M. Gillett, secretary Mahopac Falls Railroad Company, relative to increase of stock. Ordered letter sent as dictated.

Letter of Mr. Hain, general manager, relative to engineer Knight's statement in regard to accident on that road September 26. Ordered filed.

Letter of J. M. Toucey, superintendent New York Central and Hudson River Railroad Company, relative to station at Washingtonville. Ordered copy sent to Joseph S. Wood.

Letter of Charles Parsons, Jr., relative to Watertown bank case. Ordered filed.

Letter of J. M. Toucey, relative to Watertown bank case. Ordered filed.

Letter of F. A. Schroeder, president, making application for leave to suspend operations of Sea View railroad during winter months in each year. Permission granted until otherwise ordered.

Letter of A. L. Inman, general manager Chateaugay railroad, asking for extension of time to heat cars by steam. Time extended one year.

Telegram of H. W. Webb, vice-president Wagner Palace Car Company, relative to steam-heating of its cars. Referred to Commissioner Rogers, with power.

Letter of George D. Chapman, receiver Lackawanna and Pittsburg railroad. Ordered filed.

Letter of Ayrault & Helme, relative to Lackawanna and Pittsburg railroad. Ordered letter sent as dictated.

NEW BUSINESS.

Letter sent Charles Parsons, embodying complaint of Adirondack Pulp Company.

Letter of H. M. Britton, general manager Rome, Watertown and Ogdensburg railroad, asking extension of time to heat by steam. Extension granted to January 1, 1889.

Letter of J. E. Childs, general manager New York, Ontario and Western railroad, asking extension of time to heat by steam. Extension granted to January 1, 1889.

Letter of C. H. Coombs, general manager New York and Northern railroad, asking extension of time to heat by steam. Extension granted to December 1, 1888.

Letter of Chapman & Lyon. Original copy of evidence sent them, with instructions to return it.

Letter of Ives D. Lounsbury, relative to steam coupler. Ordered, that he be written that he had better bring his device to the attention of railroad companies.

Letter of Timlin-Heldinger Car Heating Company. Ordered filed with improvements. Commissioner Rogers submitted a report in the Watertown bank case. Adopted and ordered issued.

Adjourned until Monday, November 12, 1888.

WILLIAM C. HUDSON,
Secretary.

NOVEMBER 12, 1888.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Commissioner Rogers reported that the New York Central and Hudson River Railroad Company had applied for permission to haul cars over the Michigan Central, Southern Canada, and Northern Central roads, also the Pullman Palace and Wagner Palace cars received from connecting lines without steam-heating appliances until the 1st of January, 1889, and permission had been granted.

Like privileges were granted the Buffalo, Rochester and Pittsburg Railway Company, and the Lake Shore and Michigan Southern Railway Company.

Report accepted and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of William Abbott, relative to final decision in the Timpson station matter. Ordered, that Secretary write that the case, with all papers pertaining thereto, had been presented to the Attorney-General, and that the mislaying of the original copy of decision occurred in that office and not in the office of the Commissioners.

Letter of W. K. Gillette, auditor passenger accounts of the New York Central and Hudson River railroad. Ordered, that accountant be instructed to answer as dictated.

Letter of A. W. Humphrey, president of the Sterling Mountain Railway Company, relative to car heating. Ordered, that Secretary write that from his statement that his road, both as to length and the fact that only mixed trains are run on the same, exempts them from heating cars by steam.

Letter of Lowery, Stone & Auerbach, relative to commutation rates on the New York and Northern railroad. Ordered, that Secretary write that the Board would have no objection to the railroad company giving commutation tickets at reduced rates to the tenants of their clients, provided that commutation tickets at the same rate are sold to other passengers on the road to and from same point.

Letter of Chauncey Hagadorn, relative to the non-operation of the Lackawanna and Pittsburg railroad. Ordered, that he be written to as dictated.

Letter of Messrs. Ayrault and Helme, relative to same. Ordered filed.

MINUTES OF THE BOARD.

Letter of William M. Giles, relative to train service on the New York, New Haven and Hartford road. Ordered usual course.

Letter of Messrs. Sprague, Morey and Sprague, relative to extension of time in car heating matter on Grand Trunk railway. Ordered, that a copy of the decision be sent, and attention be called specifically to language of the Board.

Letter of A. Gunnison, relative to car lighting. Filed, with improvements.

Letter of Hamilton Ward, relative to complaints concerning fences. Ordered, that New York, Lake Erie and Western Railroad Company be cited to show cause why it has failed to maintain the fences as required by section 9, chapter 282, Laws of 1864, on 27th inst. at 10 A. M.

Reply of Austin Wadsworth to answer of New York, Lake Erie and Western Railroad Company to complaint of Mr. Wadsworth, was received. Ordered, that the officers of the New York, Lake Erie and Western Railway Company be cited to show cause on the 27th inst. at 10 A. M., and that Mr. Hamilton Ward and Mr. Clark, counsel, be informed of the action of the Board.

Ordered, that the Secretary inform the Manhattan Elevated Railway Company that the Board will investigate the cause of the accident wherein Philip Baer was killed, at the Chamber of Commerce, Thursday, 15th inst. at 10 A. M.

Also, the Brooklyn Elevated Railway, and the Kings County Railway Company, be notified that the Board will investigate the accident of the collision occurring on November 6, at the Chamber of Commerce, November 15, at 10 A. M.

Also, that the Secretary write coroner for testimony relative to death of Mrs. Ed. Shrincl, at Fishkill Landing, on the 8th inst.

Ordered, also, that the New York, New Haven and Hartford Railroad Company be ordered to show cause why it has failed to comply with the provisions of chapter 189, Laws of 1888.

A telegram from Hon. C. M. Depew, relative to decision of Board in Watertown matter, was received. Ordered, that Secretary wire Mr. Depew that decision was sent the Rome, Watertown and Ogdensburgh company, November third, and to inform Mr. Parsons of telegraphic correspondence with Mr. Depew, and to send another copy of decision to Rome, Watertown and Ogdensburgh Railroad Company.

Commissioner Rickard submitted a report in the matter of an accident on the Rome, Watertown and Ogdensburgh road, near Hannibal, October 5, 1888. Laid on the table for one week.

The Board adjourned.

WILLIAM C. HUDSON,
Secretary.

NOVEMBER 20, 1888.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Edmond Redmond, relative to prevention of dust on railroads. Filed with improvements.

Letter of New York, New Haven and Hartford Railroad Company, relative to steam heating. Ordered presented to the Attorney-General for his consideration and action.

Letters of Charles Parsons, Jr., and James A. Ward, Jr., relative to Watertown bank case. Laid over one week.

Letter of John Mackay, relative to the Bay Ridge decision. Referred to Commissioner Rogers.

Board adjourned to Monday, November 26th, 2 P. M.

WILLIAM C. HUDSON,
Secretary.

NOVEMBER 26, 1888.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Chauncey Hagadorn, accompanying petition of residents of Nunda, relative to non-operation of Lackawanna and Pittsburg railroad. Ordered, that the letter dictated, a copy of which is on file, be sent to petitioners; and also copy be sent to George D. Chapman, receiver.

Letter of John M. Toucey, general superintendent New York Central and Hudson River railroad, being an answer to petition of residents of St. Johnsville. Ordered, that a copy be sent to residents of St. Johnsville, and matter referred to Commissioner Rickard.

Letter of O. M. Bowles, of New Rochelle, relative to time-table of New York, New Haven and Hartford Railroad Company. Ordered, that he be notified that President Clark informs the Board that the intervals between the trains have been increased, and that he expects that the delays will be shortly overcome. Should they continue, the Board would like to hear from him, and the Board would then attempt to redress the grievance.

Also, ordered, that the Inspector be instructed to go to New York during the week beginning December second, and, investigate the time-table of the New York, New

Haven and Hartford Railroad Company, and the manner in which the trains of this road were run on the Harlem track, and report to the Board before December tenth what modification he would suggest.

Ordered, that the Attorney-General be respectfully requested to inform the Board what action he has taken with regard to the cases which have been presented to him by the Board for his consideration and action, in order that the Board may inform the Legislature in its annual report.

Commissioner Rogers reported in the matter of the letter of John Mackay, relative to the suspension of the Bay Ridge Branch of the Manhattan division of the Long Island railroad, referred to him.

Letter of James A. Ward, relative to action of Board in matter of Watertown banks against the Rome, Watertown and Ogdensburg Railroad Company.

Commissioner Rogers submitted a report in the above matter. Ordered, that the same be adopted as the recommendation of the Board and printed and issued.

Application of the Court Street and East End Railroad Company, for increase of capital stock from \$20,000 to \$30,000, was granted, and copy placed on file.

Commissioner Rickard submitted a report in the matter of the accident occurring on the New York, Lake Erie and Western railroad near Otisville, October 24, 1888. Laid over for one week.

Board adjourned until December 3, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 3, 1888.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letters relative to steam-heating on passenger cars were received from the Fall Brook Coal Company; the Ulster and Delaware; the New York, Chicago and St. Louis; the New York, Susquehanna and Western, and the New York and New England Railroad Companies. Ordered, that the companies claiming to be exempt because they have not fifty miles within the State be written to the effect that the Board holds that these companies are liable under the law. This question is now before the Attorney-General through the reference by the Board of the claim of the New York, New Haven and Hartford Company to similar effect, hearing upon which will be held before the Attorney-General on December 16, 1888.

Telegram of the Long Island Railroad Company, asking for extension of time in which to equip passenger cars with steam-heating apparatus, until January 1, was received and request granted.

Letter of C. M. Depew, president of the New York Central and Hudson River Railroad Company, relative to grade crossings at Buffalo was received. Ordered filed.

Letter of Wm. Abbott, relative to hearing in Timpson's station matter for the Attorney-General. Ordered filed.

Letter of A. D. Tingley, relative to Standard Automatic car-coupler, was received. Ordered, that the Secretary write and say that the Board has offered no premium for the best coupler and does not at present contemplate a competition, but would be glad to receive a model of the Standard.

Letter of Hon. Wm. H. Kimball, relative to legislation for lighting the cars. Ordered, that the letter dictated, copy of which is on file, be sent.

Letter of Hamilton Ward, relative to hearing on matter of fencing on line of Erie road on 4th inst. Ordered, that Secretary notify Mr. Ward as to result of hearing on the 4th inst.

Letter of Mr. Coyle, relative to overcharge of Rome, Watertown and Ogdensburg Railroad Company on the transportation of animals of Forepaugh show. Ordered, that the Secretary send a copy of Mr. Coyle's letter, and ask, after referring to last letter of Rome, Watertown and Ogdensburg company in this matter, whether, in view of the fact that the shipments over the New York Central, and Boston and Albany roads were made under like circumstances, the Rome, Watertown and Ogdensburg Company does not think its charges, as compared with the other two, are too large.

Letter of J. B. Thomas, relative to annual reports of the Hayt's Corners, Ovid and Willard Railroad Company. Ordered, that the Board has no power to exempt the incorporation from making reports, and such reports are necessary to the Board to maintain completeness of same.

Letter of Sabbath Association of Binghamton, relative to railway traffic on Sunday. Ordered, that letter dictated, copy of which is on file, be sent.

Commissioner Rickard called from the table his report on the Otisville accident on the New York, Lake Erie and Western railroad. Ordered adopted, after amendment, and issued.

Ordered, that the Secretary write C. M. Bowles that the Board is investigating the matter of delay of scheduled trains on the New York, New Haven and Hartford railroad, and that its inspector is now on the ground. In the meantime the Board has understood that the delays have been greatly lessened by the adoption of a new time-table on the 25th of November, and ask if this is so, and to what extent.

Commissioner Rogers submitted a draft of the annual report.

The Board went into executive session on the same.

In open session, the report was adopted and ordered printed.

Ordered, that the salary of the stenographer, E. C. McEntee, be made \$1,500.

DECEMBER 4, 1888—10 A. M.

The Board heard Messrs. James A. Buchanan, counsel; Jno. H. Parsons, superintendent Western Division; J. M. Finch, general land agent, and Geo. H. Thompson, superintendent Rochester division New York, Lake Erie and Western Railroad Company, in the matter of the citation to show cause why the New York, Lake Erie and Western does not maintain fences on its line. Case adjourned for two weeks.

The Secretary submitted a letter from Geo. D. Chapman, receiver Lackawanna and Pittsburg railroad. Ordered, that a copy of the letter be sent to Chauncey Hagadorn.

Letter of B. W. Spencer, receiver of the Tonawanda Valley and Cuba railroad. Ordered, that the Secretary write that if the road does in fact operate less than fifty miles, it is exempt, but that in his annual report for year ending September 30, 1887, he reports the length of main track, between Attica and Cuba, as 59.00 miles. How does he reconcile this?

Letter of John W. Flynn, relative to steam-heating coupler. Ordered filed with improvements.

Board adjourned until 12 o'clock noon, December 10, at Chamber of Commerce, New York city.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 10, 1888.

The Board met at the rooms of the Chamber of Commerce, New York city, pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of J. D. Henderson and E. C. Munson, relative to death of Nicholas Woolover, at Washington street crossing, Herkimer. Ordered, that letter, as dictated, copy of which is on file, be sent. Also, ordered, that the complainant be informed that the premises have been examined by a Commissioner, and that correspondence has been opened by the Board with the view of improving the condition of the crossing.

Letter of Charles Parsons, Jr., relative to complaint of Mr. Coyle. Ordered carried on file.

Letter of J. D. Layng, relative to complaint of village of Akron. Ordered, that a copy of J. D. Layng's letter be sent to complainants, and the matter be referred to Commissioner Rickard for examination and report.

Letter of Charles Parsons, Jr. (Rome, Watertown and Ogdensburgh Railroad Company), relative to matter of Watertown bank. Ordered, that letter, as dictated, a copy of which is on file, be sent.

Report of the Inspector, relative to delay of train on the New York, New Haven and Hartford railroad. Referred to Commissioner Rogers.

Letter of William M. Giles, relative to removal of general offices of the New York, New Haven and Hartford Railroad Company. Ordered, that letter as dictated, copy of which is on file, be sent.

Letter of H. Fish, Jr., relative to bridge of New York and Northern Railroad Company over Croton lake. Ordered filed, and bridge engineer examine the same.

Letter of B. R. Hayward, relative to delays and inconveniences to passengers on West Shore road. Ordered that a copy be sent the road and that it be written that this Board deems it proper that notice should be given of delay to through passengers in consequence of the cave-in of the West Point tunnel, and that it desires to know if it will be so given.

Petition of residents of Bath and Greenbush relative to bridge over tracks of New York Central and Hudson River, and Boston and Albany roads, Broadway, foot of Partition street. Ordered usual course.

Bill of Weed, Parsons & Company, \$621.40. Approved.

The Board adjourned until Monday, December 17th, at 2 P. M.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 17, 1888.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard H. J. Cullen, Jr., in the renewal of the application of the Union Elevated Railroad Company for an increase of capital from \$1,000,000 to \$2,000,000.

Reply of Thomas Brown *et al.* to answer of Rochester and Pittsburg Railroad Company. Ordered referred to Commissioner Rickard, with Secretary, for hearing at Rochester, January 3, 1889.

Reply of William Bliss, president of the Boston and Albany Railway Company, to petition of residents of Greenbush. Ordered carried on file until answer is received from New York Central and Hudson River Railroad Company.

Answer of J. D. Layng, general manager West Shore road, to complaint of B. R. Hayward, and reply of Mr. Hayward thereto. Ordered, copy of Mr. Hayward's letter be sent to Mr. Layng with request to answer letter of Board of 11th inst.

Letter of W. C. Holbrook, relative to proceedings for increase of capital stock of Mahopac Falls Railroad Company. Ordered, that Board sees no objection to course suggested by him.

Letter of J. H. Jones, general superintendent Ulster and Delaware Railroad Company, relative to bridges. Ordered, that Board will hear him December 31, 1.30 P. M.

Letter of C. M. Bowles, relative to delays on New York, New Haven and Hartford road. Ordered carried on file.

Letter of Mr. F. Blair, auditor of the Lackawanna and Western Railroad Company, relative to reports. Ordered, that the Board will require the company to report as before and that accrued interest is a liability.

Letter of Charles Parsons, Jr., vice-president of the Rome, Watertown and Ogdensburg Railroad Company, relative to through and local traffic. Letter sent as dictated.

Bridge engineer's report as to the condition of bridge over Croton lake on the New York and Northern railroad. Ordered, copy sent to Hon. Hamilton Fish, Jr.

Commissioner Rickard submitted a report on the St. Johnsville crossing. Laid over until next meeting. Ordered, that Secretary have authority to send telegrams to delinquent companies.

Ordered, that letter relative to failure to promptly report accidents as dictated, copy of which is on file, be sent to J. M. Toucey, general superintendent New York Central and Hudson River railroad.

Ordered, that letter relative to failure of West Shore road to promptly report accidents as dictated, copy of which is on file, be sent to J. D. Laying, general manager of said road.

Ordered, that letter relative to defective roofs of sheds of New York Central and Hudson River railroad, at Albany depot, as dictated, copy of which is on file, be sent to Hon. O. M. Depew.

Ordered, that letter relative to thermometers in and ventilation of Wagner palace cars as dictated, copy of which is on file, be sent to H. W. Webb, vice-president of said company.

Ordered, that copy of letter relative to Central Crosstown cars, New York city, be sent to George S. Hart, president, as dictated, copy of which is on file.

The Board took a recess until 10 A. M., December 18.

DECEMBER 18 — 10 A. M.

The Board again in session.

Mr. Stevens, of counsel for the New York, Lake Erie and Western Railroad Company, was heard in matter of citizens of Belmont against said road.

Commissioner Rogers submitted a report in above matter. Adopted and ordered issued.

The Secretary submitted letter of James A. Ward, relative to matter of Watertown banks against Rome, Watertown and Ogdensburg Railroad Company. Ordered, that the Rome, Watertown and Ogdensburg company be cited to show cause why their failure should not be presented to the Attorney-General.

Letter of Hayes & Ogden, announcing compliance of company in matter of their complaint against Rome, Watertown and Ogdensburg Railroad Company. Ordered closed.

Board adjourned to December 31, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 31, 1888.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

E. S. Bowen, acting general manager of the Rome, Watertown and Ogdensburg road, and J. A. Ward, counsel, were heard in reference to the citation of the Rome, Watertown and Ogdensburg company to show cause why the failure of said company to comply with recommendation of Board in the matter of the Watertown banks against said company. Action referred to executive session.

E. S. Bowen was heard with reference to further extension of time within which to equip for heating other than by stoves on Rome, Watertown and Ogdensburg road. Action referred to executive session.

Also, J. W. Jones, general superintendent, and Mr. Derrick, of Ulster and Delaware Railroad Company, relative to three bridges on the line of road needing strengthening. Assurances given that they would be strengthened according to recommendation of the Board.

Also, Mr. Shaw, of the Martin Steam Heating Company, relative to the application of the Long Island and New York, and the Lake Erie and Western roads for further extension within which to equip its cars.

Commissioner Rogers reported that he had, under authority conferred upon him, granted extension of time for heating cars other than by stoves to the following companies: Wagner Palace Car Company, to January 2, 1889; Rome, Watertown and Ogdensburg company, to the 15th; Central Vermont, February 1st; Lehigh Valley, 10th; Fitchburg, 15th; New York, Lake Erie and Western, 15th; and New York Central and Hudson River Railroad Companies. Action confirmed.

Ordered that the time of the Rome, Watertown and Ogdensburg, Central Vermont, New York, Lake Erie and Western, and Long Island Railroad Companies in which to equip to heat other than by stoves, be extended to the 1st of February, 1889, as by letter dictated.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of J. M. Toucey, relative to emigrant trains as mixed trains. Ordered, that the letter as dictated and filed in answer, be sent.

Two letters of J. M. Toucey, relative to injury to brakemen at Fort Plain, and also to accident reports. Referred to Commissioner Rickard to obtain information.

Letter of J. M. Toucey, relative to roof of shed at Albany depot. Ordered filed.

Letter of L. A. Emerson, general traffic manager of the Rome, Watertown and Ogdensburg Railroad Company, relative to excessive rates on animals transported.

Ordered, that complainants be written, inclosing Assistant General Freight Agent Goodman's (New York Central and Hudson River Railroad Co.'s) letter, and calling his attention to the fact that there is a conflict of statement.

Letter of E. S. Hart, president Central Crostown Railroad Company, relative to complaint. Ordered filed.

Letter of J. D. Layng, general manager West Shore road, relative to complaint of R. P. Hayward. Ordered filed.

Letter of James C. Bayliss, relative to car lighting. Ordered filed.

Letter of W. V. Reynolds, receiver Lebanon Springs Railroad Company, relative to improvements on road. Ordered filed.

Letter of William Abbott, relative to station at Westchester. Ordered, that complainant be written that his complaints as to the platforms, cattle-guards and increase of fare, have been transmitted to the company. As to the employment of minors, the Board knows of no law permitting a corporation to employ a minor under 21 years of age, unless it be by implication from the provisions of chapter 248, Laws of 1885, to which your attention is directed.

Letter of F. Friedleben. Ordered filed.

Letter of J. D. Henderson, relative to Herkimer station. Referred to Commissioner Rogers, with all the immediately previous papers.

Answer of New York Central and Hudson River Railroad Company, to petition of citizens of Greenbush and Bath, and reply thereto received. Ordered, that a hearing be set down for Tuesday, 15th instant, at 2.30 P. M.

Report of Attorney-General received. Ordered filed.

Letter of E. A. Mosely, secretary of the Interstate Commission. Ordered, that Board would be pleased to attend the convention called by the invitation of the Interstate Commission.

Commissioner Rickard reported that the complaint of the village of Akron had been withdrawn.

Board adjourned until Wednesday, 9th inst., at 10 A. M.

WILLIAM C. HUDSON,
Secretary.

JANUARY 9, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of Charles Parsons, president of the Rome, Watertown and Ogdensburg Railroad Company, relative to extension of time in which to equip cars with heating apparatus. Ordered, that the Secretary telegraph that the Board does not, at present, feel justified in extending the time beyond February first, and the Secretary subsequently write the same.

Letter of Chauncey Hagadorn, relative to the non-operation of the Lackawanna and Pittsburg Railroad Company. Ordered, that the Secretary write Mr. Chapman, saying that the thirty days in which action was to be taken had long since passed, and that a copy of this letter be sent Mr. Hagadorn.

Letter of James Emerson, relative to car heating. Ordered filed.

Letter of James C. Bayles, relative to car heating. Ordered filed.

Letter of E. P. Wilbur, announcing the completion of the equipping of cars on the Lehigh Valley road. Ordered filed.

Letter of E. C. Walker, relative to signal bell at Main street crossing in Batavia. Ordered, that recommendation as dictated, copy of which is on file, be issued.

Letter of R. H. Class, relative to car heating. Ordered filed.

Letter of Sabbath School Association of Binghamton. Ordered filed.

Commissioner Rogers called up the answer of the Rome, Watertown and Ogdensburg Railroad Company to citation to show cause why its failure to comply with the recommendations of the Board should not be presented to the Attorney-General, and moved that it be presented to him for his consideration and action, and submitted a letter of presentation. Carried.

Commissioner Rickard reported that a hearing in the complaint of Thomas Brown and others against the Buffalo, Rochester and Pittsburg Railroad Company had been held, and that report was delayed pending further examination to be made by the inspector.

Commissioner Rickard reported in the matter of Mr. Delbeck, alleged to have been struck in the face by a bridge-guard at Herkimer, that he had found he had been struck by the bridge, and not by the guard, having risen to his feet after passing the guard.

Commissioner Rickard submitted a report in the matter of the complaint of residents of St. Johnsville against the New York Central and Hudson River Railroad Company. Ordered adopted and issued as the decision of the Board.

Ordered, that Secretary be instructed to write to Mr. Hart, president of the Central Crostown Railroad Company, as to why answer promised had not been made.

Commissioner Rogers submitted the fact of the accident occurring at Churchville, and the delay of reporting the same on the part of the company.

Ordered, that letter as dictated be sent to company, and that a hearing be set down for the 17th inst., at Churchville, at which Commissioner Rickard, accompanied by the inspector and stenographer, should attend.

The matter of an Italian found dead in the yard at Utica was referred to Commissioner Rickard.

The matter of the complaint of John Crowner against the Bradford, Eldred and Cuba Railroad Company. Ordered usual course.

The Board adjourned until the 15th inst., at 2.30 P. M.

WILLIAM C. HUDSON,
Secretary.

MINUTES OF THE BOARD.

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JANUARY 15, 1889.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter from the Adirondack Pulp Company, relative to supply of cars by the Rome, Watertown and Ogdensburgh Railroad Company. Ordered filed, and case closed.

Report of bridge engineer on the landslide occurring January 9th, at 11.40 P. M., by which train No. 29, going north, met with an accident between East Albany and Troy, was submitted. Ordered, that the letter as dictated, copy of which is on file, be sent with copy of report.

Letters of J. M. Toucey, general superintendent of the New York Central and Hudson River Railroad Company, relative to accident reports. Ordered filed.

Also, relative to accident at Brighton. Referred to Commissioner Rogers.

Letter of C. P. Clarke, president of the New York, New Haven and Hartford Railroad Company, relative to complaint of William Abbott. Ordered copy sent to complainant.

Letter of M. Coyle, relative to complaint of Forepaugh's show against Rome, Watertown and Ogdensburgh Railroad Company. Ordered filed.

Letter of Central Crosstown Railroad Company, relative to rear platforms. Ordered filed.

Letter of Edward E. Gold. Ordered filed.

The Board adjourned to Tuesday, January 22d, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

JANUARY 22, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted unfinished business, under the rule, as follows:

Letter of William Abbott, relative to the New York, New Haven and Hartford Railroad Company. Ordered, that Secretary write to the company calling attention to its failure to reply as to increased rate of fare.

Letter of J. M. Toucey, relative to the slide on the New York Central and Hudson River Railroad between East Albany and Troy. Ordered filed.

Letter of George D. Chapman, receiver of the Lackawanna and Pittsburg Railroad Company, relative to the non-operation of that road. Ordered, carried on file.

Letter of J. R. Maxwell, relative to proposed increase of stock of the Long Island Railroad Company. Ordered that a paper in which to publish notice of stockholders' meeting be designated.

Complaint as to condition of station at Greenfield on the Adirondack railroad. Ordered that the Secretary repeat the terms of complaint, and ask what the company proposes to do.

Letter of Thomas H. Sweeney, relative to road from Geneva to Naples, and asking for information as to date of charter.

Commissioner Rickard reported as to accident occurring to Antonio Guyiatti. Ordered filed with accident inquiries.

Ordered that when the Board adjourns, it adjourn to Wednesday, January 30, 1.30 P. M.

The Board heard W. H. Daly, secretary of the Freight Bureau, Buffalo Exchange, and Senator Laughlin, relative to a certain proposed enactment.

The Board stood adjourned until January 23, 1889.

JANUARY 23,

The Board met and went into executive session.

In open executive session, the Board adjourned.

WILLIAM C. HUDSON,
Secretary.

JANUARY 29, 1889.

The Board met at the Chamber of Commerce, in New York city, at 10 A. M., pursuant to the call of the chairman. All present.

Telegram from John Roach, requesting the Board to take action in the matter of the Brooklyn strike was laid before the Board.

Also telegram referred to the Board by the Governor from the executive board of District Assembly No. 75.

Also telegram from Thomas J. Coopey, on same subject.

The responses to the telegrams from Thomas J. Coopey and John Roach, made by the chairman on Monday, January 28, were laid before the Board and approved by it, copies of which are on file.

A telegram was sent to the Governor announcing that the Board was in session and would so continue for the present. Copy on file.

W. J. Richardson, secretary of the Atlantic Avenue Railroad Company, and N. H. Frost, treasurer, appeared before the Board. Mr. Richardson submitted an affidavit that the Atlantic Avenue company was prepared to run its cars, and had secured sufficient number of men to do so, if the company was given protection by the authorities from violence and intimidation.

There were no other appearances before the Board, although notice of the session of the Board had been given by telegraph to John Roach, corresponding secretary of Central Labor Union, and Thomas J. Coopey, chairman executive board, District Assembly No. 75.

Adjourned until Wednesday the 30th, at 10 o'clock A. M., at the Chamber of Commerce.

WILLIAM C. HUDSON,
Secretary.

JANUARY 30, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last regular meeting in Albany were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of William Abbott, relative to reports. Ordered filed, Mr. Abbott himself appearing.

Letter of President Clarke, of the New York, New Haven and Hartford Railroad Company, relative to the Abbott case. Ordered, that he be written, inclosing an extract from Mr. Abbott's letter as to increase of fares, and asked for response.

Letter of President Durant, of the Adirondack Railroad Company. Ordered filed.

Letter of J. M. Toucey, relative to St. Johnsville crossing. Ordered filed.

Letter of E. S. Bowen, asking extension of time for heating cars of Rome, Watertown and Ogdensburgh Railroad Company by steam. Extension was granted until 15th of February.

Commissioner Rogers submitted a report in the matter of the accident at Palmyra, on the West Shore road, December 21, 1888. Adopted and ordered issued.

Andrew D. Best and E. J. Moen, representing D. A. No. 75, of Brooklyn, appeared and were heard relative to the strike. The Board suggested that they consider the advisability of having the employees of the road treat with it directly instead of through D. A. No. 75. They agreed to report the suggestion, and asked if the Board would submit a counter-proposition from the employees to the railroad company. The Board said it would.

Adjourned until January 31, at 10 A. M., at Chamber of Commerce.

WILLIAM C. HUDSON,
Secretary.

JANUARY 31, 1889.

The Board met pursuant to adjournment. All present.

A telegram was received from Sprague, Morey & Sprague, relative to extending time of Erie road to heating cars by steam. It was answered that Board would be at Chamber of Commerce the 1st of February.

Letter was ordered sent to R. M. Galloway, vice-president Manhattan Railway Company, relative to drip-pans, as dictated.

Charles Parsons, president Rome, Watertown and Ogdensburgh Railroad Company, appeared in reference to its application for extension of time for heating cars, and was informed such extension had been granted to the 15th of February.

Telegram received from Martin Anti-Fire Car-Heating Company, asking extension of time for Long Island road to heat by steam. Answered that application would be considered if made by the Long Island Railroad Company.

Adjourned to February 1, 1889, at Chamber of Commerce.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 1, 1889.

The Board met pursuant to adjournment. All present.

An application was received from the attorneys of the New York, Lake Erie and Western Railroad Company, asking extension of time to heat cars by steam until June 1, 1889. George F. Brownell, of counsel, appeared in behalf of the application. An extension was granted until the 15th of March.

No communication or request has been received from D. A. No. 75.

The Board adjourned to meet in Albany, February 5, at 1.30 o'clock P. M.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 5, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, as follows:

Letter of F. Shaw, Martin Steam-heating Company. Ordered filed.

Letter of T. C. Platt, of the Bradford, Eldred and Cuba Railroad Company, relative to complaint of John Crowner. Ordered copy sent complainant.

Letter of E. S. Bowen, relative to extension of time to equip Rome, Watertown and Ogdensburg Railroad Company with steam-heating apparatus. Ordered filed.

Letter of Edward Kaufmann, being application for designation papers in the matter of increase of stock and issue of bonds for South Beach Railway Company. Ordered granted.

Letter of R. M. Galloway, vice-president Manhattan Railway Company, relative to drip-pans. Ordered filed.

Letter of F. W. Baldwin, superintendent Central Vermont Railroad Company, announcing completion of equipment of cars with steam-heating apparatus.

Letter of William Abbott, relative to his complaint against the New York, New Haven and Hartford Railroad Company. Ordered filed.

Letter of Tingley & Co., relative to new method of steam heating for cars. Ordered filed, with improvements.

Letter of Joseph Walker, relative to his method of steam heating. Ordered filed.

Report of the Inspector as to the mesh of nets in smoke-stacks on Buffalo, Rochester and Pittsburg railroad. Referred to Commissioner Rickard.

Commissioner Rickard submitted a report in the matter of the accident occurring at Churchville on December 23d, 1888. Ordered adopted, and issued.

The Board adjourned to 10.30 A. M., February 6, 1889.

FEBRUARY 6, 1889.

The Board met at 10.30 A. M. All present.

The Board went into executive session.

In open session the Secretary submitted the answer of the Adirondack Railroad Company, to complaint against the Greenfield station. Referred to Commissioner Baker.

The Board took a recess until 3 P. M.

3 P. M.

The Board was heard before the joint railroad committee of the Senate and Assembly. In session, the Board adjourned until February 12th, at 1.30 P. M.

WILLIAM C. HUDSON,

Secretary.

FEBRUARY 12, 1889.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

The estimate and plans of the engineers of the New York Central and Hudson River, and Boston and Albany Railroad Companies, relating to the projected bridge over the railroad tracks, foot of Partition street, Greenbush. Ordered, that they be transmitted to the village authorities, and that the Secretary write that the Board has instructed its own engineers to make estimates of the cost of the approaches.

Letter of Standard Automatic Car-Coupling Company. Ordered, that it be written to, asking it to send models.

Ordered, that the letter, as dictated, relative to the protection of the highway crossing complained of by residents of Bethlehem, Albany county, be sent.

Letter of E. B. Thomas (New York, Lake Erie and Western Railroad Company), relative to protection of Main street crossing in Batavia. Ordered, that letter, as dictated, be sent.

Letter of Fitchburg Railroad Company, relative to extension of time in which to complete the equipment of cars with steam-heating apparatus. Ordered, that the company be written that the Board has not, in any case, extended the time all through the winter, and would not be justified in doing it; but in view of the statement made, the Board hereby extends the time until the 15th of March. It would appear that if diligent efforts be made, by that time the remaining three trains could be equipped.

Letter of J. M. Toucey (New York Central and Hudson River Railroad Company), relative to recommendations in Churchville accident matter. Ordered filed.

Letter of Charles P. Clarke (president of the New York, New Haven and Hartford Railroad Company), relative to increase of fares. Ordered, copy sent to Mr. Abbott.

Letter of Richard Perkins, relative to transportation of Delaware, Lackawanna and Western Railroad Company by Delaware and Hudson Canal Company. Ordered, that Secretary write and ask him, before making complaint, to inquire of the Delaware and Hudson Canal Company whether it would transport to him the coal he desired to have, and inform the Board of the answer received by him.

Commissioner Rickard submitted a report in the matter of Thomas Brown *et al* against the Buffalo, Rochester and Pittsburg Railroad Company. Ordered printed, adopted and issued as the recommendation of the Board.

Ordered, that the Long Island Railroad Company be written informing it of extension of time in which to complete equipment of cars to first of March.

Recess ordered until 3 o'clock P. M.

3 P. M.

After recess.

The Board was heard before the joint committee on railroads of the Senate and Assembly on legislation recommended by it.

Board adjourned until to-morrow, February 13.

MINUTES OF THE BOARD.

FEBRUARY 13, 1889.

The Board met.

Commissioner Rogers submitted a request from the Buffalo Merchants' Exchange for a hearing on alleged discrimination against the city of Buffalo. Ordered, that letter as dictated, a copy of which is on file, be sent.

The Board went into executive session.

In open session the Board adjourned until February 19, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 19, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of E. A. Mosely, secretary of the Interstate Commerce Commission, relative to Board going to Washington, March 4th. Ordered, that Secretary send letter as dictated, copy of which is on file.

Report of the bridge engineer, as to cost of approaches to railroad bridge over tracks in village of Greenbush. Ordered, that Secretary inform petitioners and the railroad companies that the Board will hear them on Thursday, February 28th, at 3 P. M.

Letter of Miss Susie S. Skerrett, as to car-stop and barrier. Ordered filed.

Letter of Miss Charlotte M. Mitchell, relative to burned hay. Ordered, that Secretary inform her that the Board had no power to collect damages for burned hay or stock, and advise her that her only remedy is an appeal to the courts.

Board adjourned until Wednesday, February 20th, at 10 A. M.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 20—10 A. M.

The Board met pursuant to adjournment. All present.

The Secretary submitted a letter from H. G. Young, second vice-president Delaware and Hudson Canal Company, relative to the custom of exacting an excess of ten per cent, where tickets have not been purchased, redeemable at any station.

Also, the Senate bill (printed No. 153) entitled "An act to regulate the payment of fares upon railroads," referred to the Board by the Governor.

Mr. H. G. Young and Senator George Z. Erwin, the introducer of the bill, were heard in reference to the same. Ordered, that the report be adopted by the Board, and said bill be sent to the Governor.

The Board adjourned until Thursday, February 28th, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 28, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, as follows:

Letter of R. M. Galloway, vice-president of the Manhattan Elevated Railway Company, relative to drip-pans at corners. Ordered filed.

Complaint of Jesse Booth and others as to a dangerous crossing on the Ontario and Western railroad at Campbell Hall, town of Hamptonburgh, county of Orange. Ordered usual course.

Letter of E. A. Mosely, secretary Interstate Commerce Commission, relative to rooms for Commissioners at convention of Railroad Commissioners of various States.

Letter of F. L. Knapp, relative to rates charged for transportation of fruit. Ordered, letter, as dictated, copy of which is on file, be sent.

Letter of Charles W. Dayton, being an application for increase of capital stock of the Newburgh Street Railway Company, from \$10,000 to \$100,000, and asking for designation paper. Granted, and paper designated.

Letter of J. D. Layne, general manager of West Shore Railroad Company, relative to Bethlehem crossing. Ordered filed.

Communication of Senator Hawkins, relative to a guard on street car wheels. Ordered filed.

Letter of Joseph Walker, relative to car-heating coupler. Ordered models returned, and Secretary instructed to write that Board has examined the models, but will not make suggestions as to who will adopt them.

Letter of William G. Croamer, relative to car ventilation. Ordered, that letter, as dictated, copy of which is on file, be sent.

Letter of F. Friedleben, relative to station at Washingtonville, on Harlem road. Ordered, Secretary write in answer.

The Board heard Dr. Bell and a committee of citizens, and the Hon. Hamilton Harris, counsel of the New York Central and Hudson River Railroad Company, in the matter of the Greenbush bridge.

The Board took a recess until Friday, 10 A. M.

FRIDAY — 10 A. M.

The Board took up the matter of the application of the Union Elevated Railroad Company for an increase of capital stock. Laid over for two weeks.
The Board adjourned until Tuesday, March 12, 1889.

WILLIAM C. HUDSON,
Secretary.

MARCH 12, 1889.

The Board met pursuant to adjournment. All present.
The minutes of the last meeting were read and approved.
Mr. Brownell, for the New York, Lake Erie and Western Railroad Company, was heard in an application for a further extension of time until June 1, 1889, in which to comply with chapter 616, Laws of 1888 (Steam-Heating Act).
The report granting the same, submitted by Commissioner Rogers, was adopted and ordered filed.

Mr. Ed. Lauterbach and Mr. Longyear, auditor, were heard in the application of the Union Elevated Railroad Company, for an increase of capital stock.

The Secretary submitted the unfinished business, under the rule, as follows:
The Assembly bill (printed No. 120), referred by the Governor to the Board for consideration. Ordered, that the bill be returned to the Governor, with the report thereon as dictated, copy of which is on file.

Also, Senate bill (printed No. 191), referred by the Governor to the Board. Ordered, that the bill be returned to the Governor, with the report as dictated, copy of which is on file.

Letter of Henry A. Cox, relative to the action of the convention of Railroad Commissioners held at Washington, as to automatic signals. Referred to Commissioner Rickard for answer.

Letter of E. A. Kaufman, relative to application for increase of capital stock of South Beach Railroad Company. Ordered, that Secretary write and say that it is not the custom of the Board to give its permission for an increase of capital stock, unless it is made to appear that such increase is necessary for the purpose of constructing and equipping the railroad. The Board is informed by the letter of March 9, that no calls have as yet been made on subscribers except for purposes of organization, and that nothing has been done in the way of construction. The Board would suggest that a sworn estimate of the probable cost of construction and equipment be made. On receipt thereof, it will then take the application into consideration.

Letter of Long Island Railroad Company, asking further extension of time, until April 1, in which to complete the equipment of cars with steam-heating apparatus. Ordered granted.

Papers in the application of the Long Island Railroad Company for an increase of capital stock from \$10,000,000 to \$12,000,000. Ordered, that letter as dictated, copy of which is on file, be sent.

Ordered, that the report submitted by Commissioner Rogers, approving the increase of capital stock of the Union Elevated road, be issued as the approval of the Board.

Letter of H. L. Knapp, relative to transportation of fruit. Ordered, that Secretary write, that if the complainant has shipment to make to any point without the State it becomes a matter of Interstate Commerce. If, however, his fruit is to be shipped to any point within the State, the corporation complained of complies with law, if the agent gives a statement as to what the rate is, as appears to have been the case with the agent in question with regard to his grapes. The statistical report made to the Board of Railroad Commissioners in 1884, was not of such a character as to enable a shipper to definitely determine what his rate would be for a specific shipment, the figures being averages of many transactions.

The Board adjourned until Wednesday the 20th, 10 A. M.

WILLIAM C. HUDSON,
Secretary.

MARCH 20, 1889.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Report of the bridge engineer, Mr. Stowell, as to the cause of the falling of the iron bridge over Cayuga creek on the New York, Lake Erie and Western railroad, near La Salle. Ordered, that the report be filed, and that Secretary write said road, asking, first, the opinion of the road as to the cause of failure of the bridge. Second, why company does not conform to the provisions of section 2, chapter 616, Laws of 1887, as to guard posts.

Answer of New York, Ontario and Western Railroad Company, to complaint of residents of Campbell Hall station, relative to alleged dangerous crossing. Ordered filed and usual course taken.

Letter of Long Island Railroad Company, relative to its application for an increase of capital stock. Ordered filed.

Letter of Wingate & Cullen, relative to the determination of the Board in matter of increase of capital stock of the Union Elevated Railroad Company of Brooklyn. Ordered filed.

Complaint of residents of Berlin, Rensselaer county, against the Fitchburg and Lebanon Springs Railroad Companies. Ordered usual course.

Ordered, that Secretary write the Manhattan Elevated Railway Company asking what measures are taken to ascertain the integrity of side-bars of engines, and suggesting use of magnifying glasses to detect checks and cracks, and referring to report of Board on the accident occurring on the Rome, Watertown and Ogdensburgh road, on page 182, report for year 1887.

The Board heard Mr. H. L. Knapp in explanation of his safety appliances.

The Board considered Senate bill (printed No. 191), re-referred by the Governor, to consider a proposed amendment. Ordered, bill returned with report as dictated, copy of which is on file.

Commissioner Rogers submitted a report in the matter of the application of the Long Island Railroad Company for an increase of capital stock from \$10,000,000 to \$12,000,000, approving the same. Adopted, and ordered issued.

The Board adjourned until March 26th, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

MARCH 26, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Brief of petitioners in matter of Greenbush bridge. Ordered copied and sent to the Boston and Albany, and the New York Central and Hudson River Railroad Companies.

Answer of petitioners to New York Ontario and Western Railroad Company in matter of Campbell Hall crossing. Referred to Commissioner Baker.

Letter of A. J. Swift, chief engineer of the Delaware and Hudson Canal Company, and report of Charles F. Stowell, as to viaduct on the Albany and Susquehanna branch of the Delaware and Hudson Canal Company's road. Ordered, that a copy of the bridge engineer's report be sent to H. G. Young and John Livingston.

Letter of Kearney & Barrett, relative to shipment of stone to Toledo. Ordered, that Secretary write and say that the Board does not see that it can be of any service to the complainants in the case. The rates do not appear to be unreasonable, considering transfers and transshipments.

Letter of J. Osborn, relative to shipment of live stock. Ordered usual course.

Letter of Thompson, Ackley & Kaufman, relative to increase of capital stock of the South Beach Railway Company. Ordered, that Secretary write that in view of the fact that but thirteen shares of stock have been subscribed, the Board thinks it should see a representative of the road for an explanation.

Board adjourned to April 2d, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

APRIL 2, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Messrs. Skeels and Kaufman, of the South Beach Railway Company, were heard relative to the increase of capital stock of said company. The increase of capital stock was approved by the Board.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of E. B. Phillips of the Fitchburg road, and Joseph Childs, general freight agent of the Lebanon Springs road, relative to complaint of citizens of Berlin. The Board heard Mr. Childs' argument on that subject. Ordered usual course be taken.

Telegram of J. C. W. Daly (Buffalo Merchants' Exchange), relative to visit of committee of Exchange. Ordered that the committee be informed that the Board will be in session Wednesday, April 3, and Tuesday, April 9.

Letter of the New York, Lake Erie and Western Railroad Company, relative to the La Salle accident. Ordered, that Secretary write and say that the Board desires a copy of the letter of date of January 20, written by the Erie engineer, as the Board has not received it.

Letter of F. K. Hain, general manager Manhattan Elevated Railway Company, relative to breaking of side-bars. Ordered filed.

Letter of statistician of Interstate Commerce Commission, relative to uniform reports of statistics. Referred to Commissioner Rogers.

Commissioner Baker submitted a report as to the crossing at Campbell Hall station. Adopted, and ordered issued.

Ordered, that the Secretary write to the New York Central and Hudson River Railroad Company that the Board desires to be informed how the train was made up and the circumstances attending the collision of freight trains five miles west of Schenectady, on March 22.

It was moved that when the Board adjourns it adjourn to meet April 9, at 1.30 P. M.

APRIL 3—3 P. M.

Mr. James Walbridge and Mr. Daly, a committee of the Buffalo Merchants' Exchange, were heard with reference to charges of alleged discrimination against the city of Buffalo and asking the Board to sit in said city and investigate such charges.

Ordered, that Board hold a meeting in Buffalo on April 16, 10 A. M.
Board adjourned.

WILLIAM C. HUDSON,
Secretary.

MINUTES OF THE BOARD.

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APRIL 9, 1889.

The Board met pursuant to adjournment. All present.
 The minutes of the last meeting were read and approved.
 The Secretary submitted the unfinished business, under the rule, as follows:
 Letters of the Rome, Watertown and Ogdensburg and the Lake Shore and Michigan Southern Railroad Companies, relative to hearing at Buffalo. 15th inst.
 Hon. Hamilton Harris, V. L. Lary and J. Vaughn were heard in the Greenbush bridge matter, asking for an extension of time while a new proposition of the company was submitted to the village trustees. Ordered, that time be extended until all parties in interest were heard from.
 The three bills referred by the Governor (Assembly, Introductory No. 183; Senate, Introductory No. 512 and a proposed new bill), were considered. Commissioner Rogers submitted a report in the matter of the proposed new bill, which was ordered approved.
 In relation to request of Adjutant-General for suspension of steam heating law over April 30, it was ordered that Secretary inform the Adjutant-General that, in the opinion of the Board, heat will not be required at that date, but if any or all of the railroads apply for same it will be granted.
 Communication of the American Sabbath Union was received. Ordered filed.
 Letter of Mr. Wells' inside safety journal. Ordered filed.
 Complaint of A. Blankman, against the Rome, Watertown and Ogdensburg Railroad Company, relative to mail service at Alton. Ordered usual course.
 Letter of August Ohl, against the West Shore Railroad Company. Ordered usual course.
 Letter of John King, relative to the letter addressed to Board by the chief engineer, a copy of which was enclosed. Ordered, that letter, as dictated, copy of which is on file, be sent.
 Commissioner Baker submitted a report in the matter of the complaint in regard to the platform, etc., at Greenfield station, on the Adirondack railroad. Adopted.
 Commissioner Baker moved that when the Board adjourn it adjourn to meet in Buffalo on the evening of the 15th instant. Adopted.
 The Board then adjourned until April 10th, 10 A. M.

WILLIAM C. HUDSON,
Secretary.

APRIL 10, 1889.

The Board in session, and Mr. O. W. Chapman was heard relative to the bill referred by the Governor confirming and legalizing the merger and consolidation of two railroads in Binghamton. Ordered, that the report as dictated, a copy of which is on file, be approved and issued.
 The Board also heard Assemblyman DePeyster relative to the bill affecting the motive power of the Poughkeepsie City Railroad Company, referred by the Governor. Ordered, that the report as dictated, a copy of which is on file, be approved and issued.
 The Secretary submitted the reply of the complainants to answer of defendants, in the matter of citizens of Berlin against the Fitchburg and Lebanon Springs Railroad Companies. Ordered, that a hearing be set down for 1.30 P. M., April 23d.
 Board adjourned to meet in Buffalo at 9 P. M., April 15th.

WILLIAM C. HUDSON,
Secretary.

APRIL 15, 1889.

The Board met in the city of Buffalo, at 9 P. M., pursuant to adjournment. All present.
 The minutes of the last meeting were read and approved.
 The Secretary submitted a letter from J. Hickson, general manager of the Grand Trunk railway, saying that he would have a representative at the hearing April 15th. Ordered filed.
 The Secretary submitted a complaint of citizens of Alton, Wayne county, relative to mail facilities on the Rome, Watertown and Ogdensburg railroad. Ordered usual course.
 The Board adjourned to meet to-morrow, April 16th, at 10 A. M.

APRIL 16, 1889.

Board in session. The merchants of Buffalo and representatives of the Merchants' Exchange were heard in the matter of the complaint of the Merchants' Exchange against the various railroad companies centering in Buffalo, relative to the alleged discrimination in freight rates against said city.

The Board adjourned to meet in Albany, April 23d, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

APRIL 23, 1889.

The Board met pursuant to adjournment.

Present—Commissioners Rogers and Baker.

The minutes of the last meeting were read and approved.

The Secretary submitted a telegram from Commissioner Rickard stating his inability to be present, owing to a serious illness in his family.

The Secretary submitted the unfinished business, under the rule, as follows:

Letters of Charles Parsons, Jr., vice-president of the Rome, Watertown and Ogdensburg Railroad Company, relative to the complaint of the village of Alton as to mail service. Ordered, that copies be sent complainants and that the Secretary be instructed to write, suggesting that the postmaster of the village be asked if a mail bag is suspended on the crane for passing mail trains, and whether he sends for mail bags dropped by such trains.

Application of the New York, Ontario and Western, and the Rome, Watertown and Ogdensburg Railroad Companies for a suspension of steam heating law from April 27th to May 2d. Granted as by letter dictated, copy of which is on file.

Letter of J. M. Toucey, New York Central and Hudson River Railroad Company, relative to accident on March 26th, near Schenectady. Ordered referred to Commissioner Rickard.

The Board heard Messrs. W. H. Duffy and C. Whyland for residents of Berlin and Joseph Childs (for Lebanon Springs Railroad Company) in the matter of the complaint of residents of Berlin against the Lebanon Springs and Fitchburg Railroad Companies.

Letter of L. H. Chittenden, relative to proceedings understood to be pending before the Board relative to the consolidation of the Montauk Railroad Company with the Long Island Railroad Company. Ordered that letter dictated, copy of which is on file, be sent.

The Board took up Senate bill (printed No. 538), introduced by Mr. Vedder, and referred by the Governor to this Board for consideration. Ordered, that it be returned with the opinion as dictated, copy of which is on file.

The Board adjourned until April 24, at 10 A. M.

APRIL 24—10 A. M.

The Board considered Senate bill (printed No. 570), introduced by Senator Sweet, and referred by the Governor to the Board for consideration. Ordered, that it be returned with the opinion of the Board.

The Board took up the consideration of the matter of the citizens of Berlin against the Lebanon Springs and Fitchburg Railroad Companies. Commissioner Rogers submitted a report. Ordered adopted and issued.

The Board adjourned until May 7, 1889.

WILLIAM C. HUDSON,
Secretary.

MAY 7, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of E. B. Darrow, relative to Greenfield station on the Adirondack railroad. Ordered copy sent to road and the company written to send the plans and dimensions to the Board.

Letter of Col. Hazard, relative to amendment of chapter 582, Laws of 1880. Ordered, that Secretary write acknowledging letter and ask for citation of case wherein Court of Appeals decision is made, and to say that Board does not clearly understand his objection to the language beginning on line 9, page 419. The language of the statute is not above criticism, but the intent appears to be clearly in conformity with the constitutional provision.

Letter of J. M. Butler (Broadway, Bath and West End Railroad Company). Ordered, that Secretary inform himself as to the purposes of Terminal Company and with the plan of the proposed terminal facilities and report to the Board.

Letter of J. Burton, general manager of the New York, Ontario and Western Railway Company. Ordered, that the Board is disposed to review the Campbell Hall crossing case to the extent of giving Mr. Burton a personal interview, Monday, 14th, at 2 P. M.

Letter of T. C. Platt, relative to compliance of the Bradford, Eldred and Cuba Railroad Company in decision of the Board in the Crowner matter. Ordered closed.

Letter of A. H. Blaakman, relative to mail facilities at Alton. Ordered, that Secretary suggest that the attention of the post-office authorities on the train be called to the matter, and the request made to them that greater attention be given to the taking up and dropping of mails, in view of the facilities furnished for the purpose.

Letter of Charles W. Dayton, with accompanying documents, relative to increase of capital stock of the Newburgh Street Railway Company. Ordered, referred to accountant for examination of financial status and the cost of road and equipment to the present time, as shown by the annual reports to the Board, as modified by the accountant, LeCombe. Also ordered, that Secretary write that the Board is not in the habit of granting an increase so that there is an excess of stocks and bonds over cost of road and equipment, and saying Board desires to know what the company proposes to do with the increase.

Bill of J. B. Lyon for printing 500 copies annual report, \$2,644.95. Ordered approved.

The Board adjourned until Wednesday, May 8th, at 10 A. M.

MAY 8, 1889 — 10 A. M.

Board again in session.

They took up for consideration the bill referred by the Governor (printed No. 308), entitled "An act to amend the charter of the Hudson River Suspension Bridge and New England Railway Company." Ordered, that the bill be returned with the opinion of the Board as dictated, copy of which is on file.

Also, the bill (printed No. 368), entitled "An act to incorporate the New York and Brooklyn Tunnel Company," referred by the Governor. Ordered, that the bill be returned with the opinion of the Board as dictated, copy of which is on file.

The Board adjourned.

WILLIAM C. HUDSON,

Secretary.

MAY 14, 1889.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business as follows:

Letter of J. M. Toucey, general superintendent of the New York Central and Hudson River Railroad Company, relative to information given by Mr. Wygant, as to the lateness of trains, etc. Ordered filed.

Letter of J. B. Dutcher, general live stock manager, relative to complaint of Jerome Osborn. Ordered copy sent to complainants.

Letter of Charles W. Dayton, relative to increase of stock of the Newburgh Railway Company. Ordered laid on the table.

Letter of J. Burton (New York, Ontario and Western Railroad Company), relative to Campbell Hall crossing.

Mr. J. Burton, general manager, and Mr. Canfield, chief engineer, were heard on an application for a modification of the determination of the Board in the said Campbell Hall crossing matter. Order of Board as dictated, copy of which is on file, be issued.

Application of the Ulster and Delaware Railroad Company to be relieved from building its railroad beyond the portion thereof constructed at the time said corporation acquired title to such railroad property and franchise. Ordered, that a hearing be set down for May 28th, at 11 P. M., and that notice of such meeting be advertised in Kingston, Stamford and Harpersfield papers.

Letter of A. E. Clark, relative to order of the Board for proper fencing on line of Buffalo, Rochester and Pittsburgh railroad. Ordered filed.

Letter of Hamilton Ward, counsel for residents of Belmont, Allegany county, in case against the New York, Lake Erie and Western road. Ordered, that letter, as dictated, copy of which is on file, be sent.

Board adjourned until Wednesday, May 15, 1889, 10 A. M.

MAY 15, 1889.

Board convened.

Letter of C. H. Andrews, relative to power of Superintendent of Public Works to prevent a street railway company from crossing a canal bridge. Ordered, that Secretary answer that the question has never been before the Board. Referred to Secretary to ascertain and report upon powers of Superintendent of Public Works.

The Secretary submitted for action of the Board the case of Chauncey Hagadorn against the Lackawanna and Pittsburg Railroad Company. Ordered, that Secretary write to Thomas C. Platt, president of the newly organized road, and to George D. Chapman, director, as to what is proposed to be done about operation of Nunda branch. Also, the case of M. Coyle against the Rome, Watertown and Ogdensburg Railroad Company. Ordered closed.

Also, E. C. Walker against the New York, Lake Erie and Western Railroad Company. Ordered, that Secretary write and ask what, if any, action has been taken as to the recommendation of the Board of January 9th to substitute a flagman for the electric bell at Batavia.

Letter of J. B. Dutcher, general live stock agent of the New York Central and Hudson River Railroad Company, relative to August Ohl's complaint. Ordered usual course.

Report of the accountant as to the finances of the Newburgh Street Railway Company. Ordered filed and the application of the company for a suspension of proceedings upon the part of the Board be granted.

Letter of R. B. Williams, treasurer of the Utica, Clinton and Binghamton Railroad Company, relative to issue of bonds. Ordered, that Secretary write that Board deems that under provisions of subdivision 10, section 28, chapter 140, Laws of 1880, failure to submit the proposal to issue bonds to a meeting of stockholders would subject directors to punishment for a misdemeanor.

Letter of W. W. Durant, president and general manager of the Adirondack Railroad Company. Ordered, that secretary write complainant giving dimensions of station, and that Board in view of the traffic at that point, deems station sufficient.

The Board adjourned until 10 A. M., Tuesday, May 21, 1889.

WILLIAM C. HUDSON,

Secretary.

MAY 21, 1889.

The Board met at 2 P. M. by unanimous consent. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business as follows:

Request of the citizens' committee of the village of Greenbush and town of East Greenbush, requesting that the proceedings be suspended at the request of defendants, pending the submission of a proposition to the village trustees, be taken up again. Ordered, that the Secretary write to Hon. Hamilton Harris saying that the Board has received a communication from Dr. Bell, chairman of the citizens' committee of the village of Greenbush and town of East Greenbush, to the effect that the village trustees have taken no action as to any proposition from the New York Central and Hudson River and the Boston and Albany Railroad Companies, and claiming that no proposition has been made by the companies to the village trustees; also that it will be remembered that on April 9th, he appeared before the Board and that no further action be taken until he could lay a proposition before the trustees of the village of Greenbush.

The Board desires to know what the present status is.

Ordered, that leave of absence be granted to Wm. H. Lee on account of illness.

Communication of Interstate Commerce Commission was received. Referred to Commissioner Rogers.

Letter of Frank S. Smith, relative to the operation of the Nunda branch of the Lackawanna and Pittsburg Railroad Company. Ordered carried on file.

Letter of J. Sanders, relative to St. Johnsville crossing. Ordered carried on file.

Commissioner Rogers submitted a report in the matter of the Merchants' Exchange of the city of Buffalo, against lines passing through that city, alleged discriminations against the same. Accepted, adopted, ordered printed and issued.

The Secretary reported that the Superintendent of Public Works claimed to have, under chapter 276, Laws of 1884, absolute power over all bridges crossing the canals. Ordered that letter as dictated, copy of which is on file, be sent.

The Board went into session on the fifteen bills referred to them by the Governor for opinion.

On Assembly bill (No. 587, Executive No. 102). Ordered bill returned with opinion as dictated, copy of which is on file.

Also, Senate bill (No. 570, Executive No. 139). Ordered returned with opinion of Board, as dictated, copy of which is on file.

Also, Assembly bill (printed No. 1060) entitled "An act to extend the time for completion of Mechanicville and Fort Edward railroad."

Also, Senate bill (printed No. 629) amending street railroad act relative to securing adequate compensation.

Also, Assembly bill (printed No. 530) relative to United States Harvey Way Company.

Also, Assembly bill (printed No. 1011) relative to the use of tracks by other companies.

Also, Assembly bill (printed No. 508) amending act relative to elevated railroads.

Also, Assembly bill (printed No. 1210) relative to lighting of passenger cars.

Also, Senate bill (printed No. 356) relative to New York and Brooklyn Tunnel Company.

Also, Senate bill (printed No. 581) relative to leasing of street railroads.

Also, Senate bill (printed No. 590) relative to change of power on street railroads.

Also, Senate bill (printed No. 627) relative to percentages paid by street railroad companies.

Also, Senate bill (printed No. 605) relative to Utica Belt Line Railroad Company.

Also, Senate bill (printed No. 572) relative to railroad appliances.

Also, Senate bill (printed No. 608) relative to the Harvey claim.

Ordered, that the bills all be returned to the Governor, with the several opinions thereto relating, as dictated, copies of which are on file.

The Board adjourned.

WILLIAM C. HUDSON,
Secretary.

MAY 28, 1889.

The Board met pursuant to rule. All present.

The minutes of the previous meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Henri W. Braem, relative to discrimination in freight rates on part of the Boston and Albany Railroad Company. Ordered, that Secretary write and say that if the matter relates to shipments to points outside of the State it is a matter for the consideration of the Interstate Commerce Commission.

Letter of August Ohl, relative to live-stock chute. Ordered, that a copy be sent to the New York Central and Hudson River Railroad Company.

Letter of John King, president of the New York, Lake Erie and Western Railroad Company, relative to protection of Main street crossing, Batavia. Ordered, that Secretary write to Senator Walker, inclosing copy of letter, and ask what satisfaction the bill is giving.

Also, letter of same party, relative to complaint of citizens of Belmont. Ordered copy sent and Mr. Ward asked if recommendations are being complied with.

Letter of Cooperstown and Charlotte Valley Railroad Company, relative to exchange of stock. Ordered, letter as dictated, copy of which is on file, be sent.

Also, letter of same party, relative to bridges. Ordered, letter as dictated, copy of which is on file, be sent.

Ordered that Secretary write, asking Hon. Hamilton Harris why no reply has been made to letter of last week relative to the Greenbush bridge matter.

Complaint of James Peters as to failure of Cooperstown and Charlotte Valley Railroad Company to maintain fences. Usual course.

The Board heard Mr. Burrill, Edwin Young and S. G. Dimmick for company, and E. K. Countryman and Mr. Grant for people of Harpersfield, in application of Ulster and Delaware Railroad Company for sanction to abandon a portion of the projected Rondout and Oswego railroad. Consideration of this subject adjourned until June 11.

The Board adjourned until Tuesday, June 4, at 10 A. M.

WILLIAM C. HUDSON,
Secretary.

JUNE 4, 1889.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Board heard Hon. E. C. Sprague for the New York, Lake Erie and Western Railroad Company in an application for approval of cooking ranges to be used on dining-room and directors' cars. Ordered that plans and drawings of same be forwarded to Board before or on June eleventh and superintendent of motive power attend.

The Secretary submitted the business on file.

Answers of the New York Central and Hudson River Railroad, New York, Lake Erie and Western, and the Delaware, Lackawanna and Western Railroad Companies, to complaint of Business Men's Association of the village of Black Lick. Ordered, copy sent to complainant and to Mr. B. Holmes, of the city of Buffalo.

Ordered, that the Secretary write to Hon. C. M. Depew, calling his attention to letter of date of January sixteenth, and asking if any answer was ever made thereto.

Letter of E. M. Reed, vice-president New York, New Haven and Hartford Railroad Company, relative to complaint of William Abbott. Ordered, copy sent to Mr. Abbott.

Letter of D. E. Silver, president Cooperstown and Charlotte Valley Railroad Company, relative to complaint of James Peters. Referred to Commissioner Rickard.

Letter of William E. Clarke, for petitioners, against the Buffalo, Rochester and Pittsburgh Railroad Company (fences, etc.). Ordered, copy sent to company with order to show cause on June eighteenth, why the failure to comply with recommendations of Board should not be presented to Attorney-General for his consideration and action.

Letter of Hon. Hamilton Harris, relative to complaint as to Greenbush railroad crossing. Ordered, that Secretary write saying that Board is informed that Mr. Lary never presented the proposition, and the Board requests that a copy of the same be sent them and also a copy transmitted to the president of the village.

Also, to notify the president and ask that it be submitted to the trustees promptly and that the Board be informed as to the result.

The Board adjourned until Tuesday, June 11th, at 9.30 A. M.

WILLIAM C. HUDSON,
Secretary.

JUNE 11, 1889.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Hon. Hamilton Harris conveying copy of proposition submitted to village trustees of Greenbush relative to bridge at Partition street over railroad tracks. Ordered filed.

Letter of Sprague, Morey, Sprague & Brownell, for New York, Lake Erie and Western Railroad Company, asking that the hearing relative to cooking ranges be postponed until further application.

Letter of W. Abbott, relative to the spelling of his name. Ordered filed.

Letter of George H. Tryon, being a complaint against express charges. Ordered usual course after consideration of letter.

Letter of V. A. Villard, relative to failure of the New York, Lake Erie and Western Railroad Company, to comply with recommendation of Board in the Belmont matter. Ordered that the same be presented to the Attorney-General, and that the complainants and the New York, Lake Erie and Western Railroad Company be notified of the action of the Board.

Letter of J. Hoese, being complaint against the Rome, Watertown and Ogdensburg Railroad Company, relative to freight rates. Ordered usual course.

Letter of E. C. Walker, relative to bell at Main street crossing, Batavia. Ordered, that Secretary write to Solomon Lusk relative to same.

Letter of E. B. Phillips, president of the Fitchburg Railroad Company, relative to station at Eagle Bridge. Ordered usual course.

Commissioner Rickard submitted a verbal report to the effect that in the matter of James Peters against Cooperstown and Charlotte Valley railroad, the company made the improvements desired by him, and the complainant withdrew his complaint.

The Board took up the adjourned matter of the application of the Ulster and Delaware Railroad Company, asking permission of the Board to abandon a portion of route of Oswego and Rondout railroad, and heard Mr. John F. Burrill and Mr. S. G. Dimmick for company, and James Grant for the town of Harpersfield.

The Board adjourned until 2.30 P. M. Monday, June 17.

WILLIAM C. HUDSON,
Secretary.

JUNE 17, 1889.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Board took a recess to meet with the Comptroller in joint session as a board of audit, under chapter 588, Laws of 1886, on cost of Annual Report.

In session again, the Secretary submitted the unfinished business, under the rule, as follows:

A communication of the Anti-Railroad Frog Company was received. Ordered filed with improvements.

Letter of J. W. Cloud, secretary Master Car Builders' Association, inviting Board to attend association meeting. Ordered, that Secretary write and say that some representation of the Board will be present.

Letter of J. H. Eakin, relative to automatic coupler. Ordered filed with improvements.

Letter of O. S. Laycock, relative to Black Rock Business Men's Association complaint. Ordered filed.

Letter of H. G. Danforth (Buffalo, Rochester and Pittsburg Railroad Company). Ordered kept on file.

Ordered, that the Secretary write to Mr. J. S. Smith, asking whether the Lackawanna and Pittsburg Railroad Company had yet been reorganized.

Ordered, that bill of National Express Company, \$387.69, for distribution of annual reports be approved.

The Board took a recess until June 18th, 10 A. M.

JUNE 18, 1889 — 10 A. M.

The Board in session.

The Secretary submitted a verified statement of the Buffalo, Rochester and Pittsburg Railroad Company as to the manner in which the company is complying with the recommendations in the matter of Thomas Brown *et al.* Mr. Clarke was heard for petitioners. Ordered, that the petitioners present affidavits as to the failure of the road to comply.

Communication from village of Greenbush as to the matter of the bridge crossing at foot of Partition street. Ordered, that a copy be sent to Hon. Hamilton Harris, counsel, together with letter as dictated.

Letter of Solomon B. Lusk and others as to the failure of bell at Main street crossing, Batavia. Ordered, that Secretary write the officers of the New York, Lake Erie and Western railroad, setting forth the provision of Board of specific instances of failure, and that the Board renews its recommendation of removal of bell and stationing of the flagman at crossing.

Letter of Fred A. Schroeder, president of the Seaview Railroad Company, relative to strength of supports. Ordered, that Secretary send correspondence to Mr. Spencer and ask him to report to Board as to what his understanding with the company was and if, in his opinion, the Board could safely comply with request of company.

Letter of Henry O'Neill as to information of law as to bridge at One Hundred and Fifteenth street and Fourth avenue. Ordered referred to Secretary for answer.

Communication and resolution from the Buffalo Merchants' Exchange inquiring as to action of Board. Ordered filed.

Board adjourned until Monday, June 24th, 2.30 P. M.

WILLIAM C. HUDSON.

Secretary.

JUNE 24, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Frank S. Smith and Chauncey Hagadorn, relative to the operation of the Nunda branch of the old Lackawanna and Pittsburg railroad. Ordered, that a copy of the correspondence with Mr. Smith, counsel, be forwarded to Mr. Hagadorn.

Letter of L. A. Emmons (Rome, Watertown and Ogdensburgh Railroad Company), relative to complaint of J. Hoese. Ordered usual course.

Complaint of trainmen, New York, Lake Erie and Western Railroad Company, relative to bridge at Blauveltville, Rockland county. Ordered, that a copy of the complaint be sent to the highway commissioners of the town of Orangetown, and that Secretary say that the Board deems that the proposed bridge should not be less than twenty feet, else, life and limb would be endangered, and the Board so recommends; also write the New York, Lake Erie and Western Railroad Company, saying the Board is informed that objection has been made to the bridge at twenty feet; that the Board has recommended that it should not be less than twenty feet, and desires to know what the road is doing to it; also to notify complainants of action of Board.

Complaint of J. Blackman, village clerk of the village of Gowanda, against the New York, Lake Erie and Western Railroad Company. Ordered, that Secretary inform complainants that the Board has authority to take cognizance, but has no power to enforce its recommendation. However, under section 3, chapter 439, Laws of 1884, it is probable that the town could receive more certain redress, than under application to the Board.

Letter of J. B. Layng, general manager of the West Shore Railroad Company, relative to complaint of August Ohl, of Utica. Ordered, that copy of Mr. Layng's letter be sent to Mr. Ohl.

Commissioner Rogers submitted a report in the matter of the application of the Ulster and Delaware Railroad Company, for leave to abandon a portion of the projected route of the Rondout and Oswego railroad. Adopted, ordered printed and issued.

The Board adjourned until 2.30, July 1, 1889.

WILLIAM C. HUDSON.

Secretary.

JULY 1, 1889.

The Board met pursuant to adjournment. All present.

Minutes of the Board were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of J. E. V. Harring, relative to bridge on line of the New York, Lake Erie and Western road at Blauveltville. Ordered, copy sent to New York, Lake Erie and Western Railroad Company.

Letter of Charles H. Porter, M. D., relative to method of receiving trains at Albany depot. Ordered, that a copy be sent to the New York Central and Hudson River Railroad Company.

Letter of J. Hoese, relative to rate on cheese charged by the Rome, Watertown and Ogdensburg Railroad Company. Referred to Commissioner Baker.

Letter of E. A. Moseley, secretary of the Interstate Commerce Commission, relative to forms of annual reports. Ordered retained on file.

Letter of Corporation Counsel Clark, of New York city. Ordered that he be informed that the Board will notify him of all hearings.

Letter of John King, president of the New York, Lake Erie and Western Railroad Company, as to bell at crossing in village of Batavia. Ordered that copies of papers asked for be sent.

Supplementary report of the inspector as to the Sea View Railroad Company. Ordered that a copy of report be sent to the company and that the secretary say that if the company will box in the piles in the manner described in said report, the Board will modify its recommendation to the effect that new piles need not be substituted this season.

Board adjourned until Monday, July 8th, 2.30 P. M.

WILLIAM C. HUDSON,
Secretary.

JULY 8, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Telegram of S. M. Felton, vice-president of the New York, Lake Erie and Western Railroad Company, relative to the bridge at Blauveltville, Rockland county. Ordered, that the Secretary write to the highway commissioners that the Board does not clearly understand the objections raised by the said commissioners in their letter of June 20, to the bridge being twenty feet in the clear. The approaches to the bridge should be so made as to give the least possible inconvenience to abutting property owners, and this the Board presumes the company is prepared to do.

Letter of Chauncey Hagadorn, relative to the non-operation of the Nunda branch of the road to Nunda junction. Ordered, that Secretary write to Western New York and Pennsylvania Railroad Company, asking why it does not operate that portion of twelve miles.

Also, letter of A. C. Dodge, of Nunda, relating to the same subject. Ordered that Secretary inform him that the Board has made inquiries of the Western New York and Pennsylvania Railroad Company relative to same telegram and letter from Interstate Commerce Commission. Ordered that letter as dictated be sent.

Letter of C. M. Depew, president of the New York Central and Hudson River Railroad Company, relative to bonds of West Shore Railroad Company. Ordered that Board has had a verbal request for the information, and that as the matter involved in the report is one of public interest the Board is of the opinion that a copy of the report as approved by the directors of each company should be filed with it.

Letter from proprietors of *Railroad Gazette*. Ordered, that Secretary write giving information desired.

Letter of Hon. D. McNaughton relative to increase of stock of Rochester and Honeoye Valley Railroad Company. Ordered that company be informed that Board will meet Monday.

Commissioner Rickard, submitted a report on the Nicholas Woolover accident, adopted and ordered issued.

The Board adjourned until July 15th, 2.30 P. M.

WILLIAM C. HUDSON,
Secretary.

JULY 15, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of J. M. Toucey, general superintendent of the New York Central and Hudson River Railroad Company, relative to complaint of C. H. Porter, M. D. Ordered that letter as dictated, copy of which is on file, be sent to Mr. Toucey, and that reply take the usual course.

Telegram of E. Lauterbach, relative to application of Third Avenue Railroad Company. Ordered, that telegram as dictated, copy of which is on file, be sent.

Letter of D. W. Petrie, relative to information as to railroads. Ordered, that Secretary send copy of reports saying that laws and information is therein comprised, and as

to second question that the Board deems the cars at 50,000 tons has reached the limit of capacity, and that greater capacity would involve a reconstruction of road beds in this country. The Board does not deem that the increase of road has been detrimental to property or has resulted in loss of life.

Letter of Schuyler Green, relative to encroachments of a railroad. Ordered, that Secretary write, that if he will make a specific complaint, detailing in what manner he is injured by the railroad company, and what company, the Board will give it attention.

Petition as to Watervliet road. Ordered usual course.

Letter of John E. Burrill, suggesting a slight change in the form of the certificate granted in the Ulster and Delaware case. Ordered agreed to.

Commissioner Baker submitted a report in the matter of the complaint of J. Hoese After amendment, adopted and ordered issued.

Preliminary application of the Third Avenue Railroad Company for permission to change its motive power. Ordered, that a public hearing on the same be set down for Tuesday, July 23, at 10 A. M., Chamber of Commerce rooms.

Board adjourned to meet in Chamber of Commerce rooms, New York city, at 10 A. M. July 23, 1889.

WILLIAM C. HUDSON,
Secretary.

JULY 23, 1889.

The Board met at the rooms of the Chamber of Commerce, New York city, pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Mr. E. Lauterbach, D. J. Dean, assistant corporation counsel, Lawson J. Fuller, F. B. Thurber, C. S. Smith and others were heard in the matter of the application of the Third Avenue Railroad Company for permission to change its motive power.

The Secretary submitted the unfinished business, under the rule, as follows:

Application of the Troy and Lansingburgh Railroad Company to change its motive power. Ordered, that the Secretary answer that the Board is now engaged upon the hearing and consideration of the first application under the new law, and will set down a hearing for this application early in September.

Complaint of John L. McMahon. Ordered usual course.

Letter of E. D. Grant, relative to the arrival of late trains at the Albany depot. Ordered, that the Secretary write that the Board has the matter under consideration, and that a copy of correspondence be sent him.

Letter of Box, Norton and Bushnell, relative to application of East Side Railroad Company of Buffalo, for an increase of capital stock. Ordered, that report submitted, copy of which is on file, be adopted and issued.

Letter of John M. Rae, relative to the closing up of culverts at Elmira, by the New York, Lake Erie and Western Railroad Company. Ordered usual course.

Letter of John E. Burrill, relative to certificate granted Ulster and Delaware Railroad Company. Ordered, that Secretary write that the Board thinks that the previous certificates granted should be returned.

Letter of F. A. Schroder, relative to piling of the Seaview railroad. Ordered placed on file.

Application of the Rochester and Honeoye Valley Railroad Company, for increase of capital stock. Referred to Commissioner Rogers, and that Secretary be ordered to inform Senator McNaughton that the Board has been since meeting in New York city.

The Board adjourned to Thursday, August 1, 1889.

WILLIAM C. HUDSON,
Secretary.

AUGUST 1, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of E. M. Rand, relative to legislative bureau. Ordered filed.

Letter of J. M. Toucey, relative to recommendation of Board in matter of Herkimer station. Referred to Commissioner Kickard.

Application for designation of papers to advertise meetings of stockholders to vote upon the proposition to increase the capital stock of the Crostown Railroad Company and the South Park Railroad Company of Rochester. Papers designated.

Letter of C. Hagadorn, of Nunda. Ordered that Western New York and Pennsylvania Railroad Company be written to reply to letter of Board as to operation of Nunda branch.

Letter of Delaware and Hudson Canal Company, acknowledging receipt of complaint of J. L. McMahon. Ordered filed.

Complaint of J. H. Rushton, relative to rates of freight on the Rome, Watertown and Ogdensburg railroad. Ordered usual course.

Answer of the Watervliet Turnpike and Railroad Company received. Ordered, that a copy be sent complainants, and the president be written to for specific citations of statutes and charter referred to by him.

Complaint of J. B. Peek against the Mamaroneck station on the New York, New Haven and Hartford railroad. Ordered usual course and company informed that Board has had verbal complaints.

Ordered, that letter to Hon. Hamilton Harris as to Greenbush bridge as dictated, copy of which is on file, be sent.

Ordered, that the hearing in the application of the Troy and Lansingburgh road to change motive power be set down for September 10, 1889, and advertising begun September 1st.

Reply of New York, Lake Erie and Western Railroad Company and further letter from Mr. Rae to his complaint as to damming up culverts at Elmira. Ordered, matter referred to Commissioner Rickard and that the Secretary write Mr. Rae that one of the Commissioners will personally inspect and will inform him of the date of his visit.

Letter of H. W. Bell, relative to Greenbush bridge matter. Ordered, that Secretary write that before receipt of Chairman Bell's letter, the Board had written to counsel of road in the matter, a copy of which is enclosed, thus debarring the Board from taking the action suggested until after the first week in September.

Commissioner Rogers submitted a report in the application of the Rochester and Honeoye Valley Railroad Company granting the same. Ordered adopted and issued. The Board adjourned until September 10th, 1889.

WILLIAM C. HUDSON,
Secretary.

SEPTEMBER 10, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Judge Fursman, for the Troy and Lansingburgh Railroad Company, was heard in its application for a change of motive power within the town of Watervliet.

Mr. Griffin, of Troy, gave notice that he would appear in opposition to the application for a change of motive power on the same road within the limits of city of Troy and the village of Lansingburgh.

Jno. D. Kernan, Mr. DeAngelis and Mr. Watson were heard with reference to the application of the Utica Belt Line Railroad Company to change its motive power.

Mr. Mitchel, from the New York, Lake Erie and Western Railroad Company, was heard on the application of the company for approval of the ranges proposed to be used on official and dining-room cars.

The Secretary submitted the business before the Board, under the rule, as follows:

Application of the Troy and Lansingburgh Railroad Company for leave to change its motive power on its routes where application has not already been made, except within the city of Troy. Ordered, that the twenty-fourth day of September, 10 A. M., be set down for hearing, and the same be advertised.

Also, application of the Utica Belt Line Railroad Company to change its motive power. Ordered, that the seventeenth day of September be set down for hearing, and that the same be advertised.

Applications of the Crostown and South Park Railroad Companies for an increase of capital stock. Ordered, that letter of John N. Beckly, as dictated, be sent.

Also the correspondence relative to the complaint of J. B. Peck against the New York, New Haven and Hartford Railroad Company. Ordered held on file until the report of the inspector is received.

Letter of I. H. Maynard, relative to commission on Revised Statutes. Referred to the chairman.

Letter of Hon. Charles F. Tabor, Attorney-General, relative to the complaint of citizens of Belmont against the New York, Lake Erie and Western Railroad Company. Ordered, that copy of letter be sent to Hon. Ham. Ward, counsel.

Letter of Hon. D. McNaughton, relative to the granting of sanction to the Rochester and Honeoye Valley Railroad Company to increase its capital stock. Ordered filed.

Letter of T. L. McKean, relative to automatic coupler. Ordered, Secretary write that an automatic coupler need not necessarily be a vertical one.

Letter of C. H. Allen, president of the Western New York and Pennsylvania Railroad Company, enclosing letter from John W. Hancock, general solicitor, relative to the failure to operate the Nunda branch. Ordered, that the letter dictated, copy of which is on file, be sent.

Letter of J. H. Rushton, relative to his complaint against the Rome, Watertown and Ogdensburgh Railroad Company. Case ordered closed.

Letter of Wm. L. Thompson, asking when the Board will hold public session in New York when he can show it his compressed air motor. Ordered, that Secretary write that the Board could not state when; that its regular meetings were held every Tuesday at Albany. It would be glad to listen to Mr. Thompson, at any time it suits his convenience, in Albany.

Letter of W. B. Van Rensselaer, as president of the Watervliet Turnpike and Railroad Company. Ordered kept on file.

Letter of Jesse Booth, relative to Campbell Hall crossing. Ordered, that Secretary write asking why the recommendation of the Board had not been conformed to and make answer by September 16th.

Letter of William Abbott, relative to cattle-guards on the New York, New Haven and Hartford railroad (Harlem branch). Ordered, that letter as dictated, copy of which is on file, be sent.

Letter of Mr. Adams, statistician of the Interstate Commerce Commission, relative to statistical information. Referred to Commissioner Rogers.

Complaint of Wm. Savage Burns against the Wagner Palace Car Company. Ordered usual course.

Letter of J. H. Van Duzen against the New York, Lake Erie and Western Railroad Company, as to cattle-guards. Ordered usual course.

Letter of J. Oppenheimer, as to passenger rates on the Long Island railroad. Usual course.

Letter of trustees of the village of Norwich against the Delaware, Lackawanna and Western Railroad Company. Ordered usual course.

Letter of Messrs. Stebbins and Utter, against the New York, Lake Erie and Western Railroad Company, relative to cattle-guards. Usual course.

Letter of Messrs. Goldsmith and Utter, against the Long Island Railroad Company. Usual course.

Commissioner Rogers submitted a report on the matter of the application of the Third Avenue Railroad Company to change its motive power. Ordered laid on the table.

Matter of the Herkimer station laid over for the present.

The Board adjourned until Monday, September 16, 1889, 2.30 P. M.

WILLIAM C. HUDSON,
Secretary.

SEPTEMBER 16, 1889.

The Board met at 2.30 P. M., agreeably to adjournment. All present.

The minutes were read and approved.

Mr. E. Lauterbach, Superintendent Robinson and Mr. Shifler, from the Third Avenue Railroad Company, of New York city, were heard in reference to the accident occurring on One Hundred and Twenty-fifth street.

The hearing in the matter of the Kenwood accident on the Delaware and Hudson railroad was postponed until Monday, twenty-third, at 4 P. M. upon the request of C. D. Hammond, superintendent.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of H. G. Young, relative to Kenwood accident. Ordered filed.

Letter of Troy and Lansingburgh Railroad Company. Ordered, that the Secretary write that Board would be happy to accept the invitation at some future date.

Letter of J. M. Joslyn, of Mount Morris, relative to obstruction of wagon roads by railroad trains at grade crossings. Ordered filed.

Letter of John J. Boyle, vice-president of the Utica Belt Line Railroad Company, asking for designation papers in matter of application for increase of stock and issue of bonds. Granted.

Letter of John N. Becklay relative to affidavits of President Mumford and Wm. C. Gray, engineer of South Park and Crosetown Railroad Companies of Rochester. Ordered that letters as dictated, copies of which are on file, be sent.

Letter of Thomas F. Grady, being a complaint of excessive and illegal rates of fare against the New York, New Haven and Hartford Railroad Company. Ordered usual course.

Commissioner Rogers submitted a report in the matter of the complaint of residents of Bath and Greenbush against the New York Central and Boston and Albany Railroad Companies. Adopted and ordered issued.

Commissioner Rickard submitted a report in the matter of James M. Rae against the New York, Lake Erie and Western Railroad Company. Ordered filed.

The Board took a recess until Tuesday morning, September 17th, at 9.30 A. M.

SEPTEMBER 17—10 A. M.

Messrs. J. D. Kernan and John F. Boyle in favor of, and A. C. DeAngelis in opposition, were heard in the application of the Utica Belt Line railroad for a change of motive power.

Ordered, that letter as dictated, copy of which is on file, relative to obstruction of grade crossings, be sent to J. M. Joslyn.

Board adjourned until September 23d, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

SEPTEMBER 23, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Mr. Lain appeared for Mr. E. Lauterbach in the matter of the application of the Third Avenue Railroad Company to change its motive power.

The Secretary submitted the business, under the rule, as follows:

Letter of Messrs. Greene and Marcy relative to a presumed application of the Buffalo Street Railway Company. Ordered, that Secretary say that notification will be given if any application is made.

Application of the Rockaway Village Railroad Company to suspend operations during the winter months. Ordered granted until May 15, 1890.

Letter of O. H. Allen, president of the Western New York and Pennsylvania Railroad Company, in matter of non-operation of Nunda branch. Ordered that letter as dictated, copy of which is on file, be sent.

Letter of Charles P. Clarke, relative to the complaint of William Abbott. Ordered, that a copy of Mr. Clarke's letter be sent to Mr. Abbott and that Secretary write to Mr. Clarke, that it seems to the Board that while a flagman would protect the tracks during the

hours he was there the danger would be during the hours when such flagman was not on duty, therefore, the Board deems that the laying of a flat cattle-guard would be only necessary; to this an answer would be desirable.

Letter of Charles P. Clarke, president of the New York, New Haven and Hartford Railroad Company, in answer to complaint of Senator Grady. Ordered, that a hearing be set down for Friday, September twenty-seventh, at 10 A. M., at Chamber of Commerce and that Senator Grady be notified, and letter as dictated, copy of which is on file, be sent to Mr. Clarke.

Letter of Charles Parsons, Jr., vice-president of the Rome, Watertown and Ogdensburg Railroad Company, asking extension of time to October 10th in which to answer complaint of citizens of Ontario. Ordered granted.

Letter of W. Hagan, secretary of the Troy and Lansingburgh Railroad Company, relative to postponement of hearing. Ordered filed.

Letter of J. Burton, general manager of the New York, Ontario and Western Railroad Company relative to gates at Campbell Hall. Ordered copy sent complainant.

Letter of John W. Church, for complainants, in matter of Norwich village against the Delaware, Lackawanna and Western Railroad Company, asking extension of time to thirty days in which defendants shall answer letter of Samuel Sloan, informing Board of the adoption of measures calculated to cure evils complained of. Ordered extension of time granted.

Letter of E. S. Bowen, general manager Rome, Watertown and Ogdensburg railroad, relative to Forest Lawn accident. Ordered filed.

Letter of J. R. Maxwell, vice-president of the Long Island Railroad Company, being answer to complaint of J. Oppenheim. Ordered, that Secretary ask what are the distances involved and the changes proposed.

Also, letter of Mr. Maxwell, being answer to complaint of Goldsmith & Tuthill. Ordered usual course.

Letter of J. M. Rae, of Elmira, relative to stoppage of watercourses by the New York, Lake Erie and Western Railroad Company. Ordered, that Secretary write that the Board deems further investigation necessary and the Board will notify him when it deems such investigation practical.

The Board heard Superintendent Hammond, Conductor Ackett and Engineer Perkins in matter of Kenwood accident, August 1.

The Board adjourned until September 24th, 9.30 A. M.

SEPTEMBER 24—9.30 A. M.

The Board heard Mr. Briggs in matter of application of the South Park and Crosstown Railroad Company of Rochester, for increase of capital stock.

Board heard Mr. Fitch, city attorney of Cohoes, M. Clemmshaw and others in matter of application of Troy and Lansingburgh Railroad Company to change its motive power. Board also heard Mr. DeAngelis and Hon. John D. Kernan in matter of application of Utica Belt Line Railroad Company for sanction to change its motive power.

Commissioner Rogers submitted a report in the matter of the accident occurring August 1st, at Kenwood, on the Delaware and Hudson Canal Company's line. Adopted and ordered issued.

Board adjourned until Wednesday, September 25th.

SEPTEMBER 25.

After general examination of the electric system in operation in Troy, Board met. Commissioner Rogers submitted reports in the matter of the application of the Crosstown and South Park Railroad Company for increase of capital stock. Adopted as granted, and ordered issued.

Board adjourned to September 30, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

SEPTEMBER 27, 1889.

The Board met in New York city, at rooms of the Chamber of Commerce. Senator Grady appeared in reference to his complaint against the New York, New Haven and Hartford Railroad Company, relative to the rate of fare charged to the Morris Park race-course, and asked for an indefinite adjournment of the case. Mr. Henry M. Taft, appeared for the company. An adjournment of the case was had pending the receipt of further communication from Senator Grady.

Edward Lauterbach, representing the Third Avenue Railroad Company, General James M. Varnum, representing the Second Avenue Railroad Company, appeared in reference to the cable construction on their joint piece of track, and after conference submitted to the Board conditions to be inserted in the permission to the Third Avenue road satisfactory to and protecting their mutual interests.

Commissioner Rogers called up the report in the matter of the applications of the Third Avenue railroad. Ordered adopted and issued.

Commissioner Rogers submitted a report in the matter of the Utica Belt Line railroad for change of motive power. Adopted and ordered issued.

Adjourned until Monday, September 30, at 1.30 P. M.

WILLIAM C. HUDSON,
Secretary.

MINUTES OF THE BOARD.

SEPTEMBER 30, 1889.

The Board met pursuant to adjournment. All present.

The Board, in the matter of the application of the Troy and Lansingburgh Railroad Company, heard Counselors Niver for the road, Patterson & Shaw for the telephone company, Messrs. Sprague, Hayes, Cleminshaw, etc. Hearing adjourned to October 8th, 10 A. M.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of O. P. Clarke, president of the New York, New Haven and Hartford Railroad Company, relative to the cattle-guard at Van Nest station. Ordered filed.

Letter of E. F. Drayton, president of the Coney Island and Brooklyn Railroad Company, inquiring relative to form of applying for leave to change its motive power. Ordered, that Secretary write that a written application for leave to change the motive power, in accordance with the provisions of chapter 531 Laws of 1889, should be sent the Board. The Board calls attention to the necessity of securing the consents of the abutting property owners as required by section 12, chapter 252, Laws of 1884, of which chapter 531, Laws of 1889, is amendatory. The Board will also require a distinct definition of the company's route.

Letter of W. F. Rowe relative to duties of baggagemen. Ordered, Secretary write that the Board is not prepared to answer questions without a full knowledge of the facts. If Mr. Rowe would present a complaint, stating the facts, the Board would transmit it to the company as is usual, and after receiving answer would determine the case in accordance with the facts.

Letter of H. W. Webb, vice-president Wagner Palace Car Company, asking ten days extension of time to answer Burns' complaint. Granted.

Letter of Vogel & Whelan relative to cable grips. Ordered filed.

Application of Seneca Falls and Cayuga Lake Railroad Company to suspend operations during winter months. Ordered hearing be set down for Tuesday, October 8, at 3 P. M., and the same be advertised.

Letter of Samuel Sloan, president Delaware, Lackawanna and Western Railroad Company, relative to complaint of citizens of Norwich. Ordered filed.

Letter of F. O. Peck, accompanying a petition from citizens of Nunda. Ordered, Secretary write the Board has already written to the Western New York and Pennsylvania Railroad Company to the effect that if branch was not operated, the Board would present matter to Attorney-General; that the Western New York and Pennsylvania Railroad Company had replied that it had no final report from Lackawanna and Pittsburg Company, yielding up all claim to the lease. Whereupon the Board, reciting the points of the correspondence to the Lackawanna and Southwestern road, had recommended such action to the latter company.

Ordered, that a hearing in the matter of J. M. Rae, against the New York, Lake Erie and Western Railroad Company, be set down for October 10th, 10 A. M., at Elmira.

The Board heard Assistant Superintendent Jones and Engineer Tiffany, Rome, Watertown and Ogdensburgh road, in the matter of the accident at Forest Lawn, on the Rome, Watertown and Ogdensburgh road, on September 30, 1889.

Board adjourned until Monday, October 7th, 2 P. M.

WILLIAM C. HUDSON,
Secretary.

EXPENSES OF THE BOARD.

Traveling expenses of the Board of Railroad Commissioners for the twelve months ending September 30, 1889, as filed and audited by items in the office of the Comptroller of the State. (Limited by chapter 353, Laws of 1882, to \$500 per month, in the aggregate, or \$6,000 per annum.)

Of the Commissioners.....	\$505 06
Of the secretary, inspector and accountant.....	328 01
Of the marshal, stenographer and clerks.....	86 62
Total	<u>\$917 69</u>

NEW COMPANIES

*Formed under the Laws of the State of New York during the year ending
September 30, 1889, by filing articles in the office of the Secretary of State.*

STEAM ROADS.

NAME OF ROAD.	County in which operated.	Date when articles filed.	Length of road. Miles.	Capital stock.
Buffalo and Geneva	Seneca to Erie	Feb. 28, 1889	124	\$1,400,000
Buffalo Lackawanna and Pacific	Erie, Niagara	Mar. 22, 1889	22.50	250,000
Campbell Hall Connecting	Orange	April 3, 1889	18	450,000
Central Dock and Terminal	Erie	May 31, 1889	5.75	500,000
Coudersport, Hornellsville and Lackawanna	Allegany, Steuben	Jan. 24, 1889	14	140,000
Delaware and North River	Sullivan, Ulster	July 6, 1889	45	500,000
Dexter and Ontario	Jefferson	Sept. 27, 1889	2	20,000
Dutchess Extension	Putnam, Dutchess	Feb. 14, 1889	6	80,000
East Branch Connecting	Delaware	April 8, 1889	3	50,000
Geneva and Van Ettenville	Seneca, Schuyler, Che- mung	Mar. 7, 1889	60	600,000
Grand View Beach	Monroe	Jan. 30, 1889	3.50	40,000
Hancock and Pennsylvania	Delaware	April 2, 1889	3	200,000
Hancock and State Line	Delaware	Mar. 14, 1889	3	200,000
Hornellsville and West Union	Steuben	Mar. 21, 1889	16	160,000
Keeseville, Ausable Chasm and Lake Champlain	Essex, Clinton	April 4, 1889	8	60,000
Kinderhook and Hudson	Columbia	Jan. 9, 1889	16.25	170,000
Lincoln Park and Charlotte	Monroe	Dec. 1, 1888	10	100,000
Little Falls, Van Hornesville and Otsego Lake Narrow Gauge	Herkimer, Otsego	June 13, 1889	17.50	160,000
Lockport and Northern	Niagara	Mar. 30, 1889	13	200,000
Neversink Valley	Sullivan	April 20, 1889	10	120,000
Niagara River and Erie	Erie	June 19, 1889	8	100,000
Oneida, Oneonta and New York	Chenango, Madison, Oneida, Otsego	Aug. 20, 1889	65	650,000
Oneonta and Earlville	Otsego, Chenango, Madison	May 8, 1889	42	420,000
Oneonta and Richfield Springs	Otsego	Jan. 31, 1889	32	320,000
Orange County	Orange	Dec. 3, 1888	9	200,000
Terminal Union	Erie	Aug. 21, 1889	1	100,000
Tilly Foster Mine	Putnam	Nov. 27, 1888	2	30,000

HORSE ROADS.

Auburn and Owaseo Lk. Electric	Cayuga	June 29, 1889	3	50,000
Coney Island Surface	Kings	Feb. 5, 1889	5	100,000
Croastown of Rochester	Monroe	April 2, 1889	5	50,000
Eleventh Ward Street	Onondaga	Mar. 7, 1889	3	100,000
Hunter's Point Avenue and Cal- vary Cemetery	Queens	Oct. 16, 1888	3	50,000
Jerome Avenue	New York	July 23, 1889	5	200,000
Lyons Street Surface	Wayne	Jan. 24, 1889	2	30,000
Metropolitan Croastown	New York	Mar. 22, 1889	4	300,000
Middletown Street	Orange	May 31, 1889	5	50,000
Pelham and Travers' Island	Westchester	Sept. 18, 1889	3	30,000
Port Jervis and Suburban	Orange	Sept. 9, 1889	2.50	25,000
Saratoga Electric	Saratoga	July 8, 1889	2.25	50,000
South Beach	Richmond	Oct. 9, 1888	1	50,000
South Park	Monroe	April 2, 1889	3	30,000
Staten Island Sea Beach	Richmond	Mar. 20, 1889	3	30,000
Syracuse, Eastwood Heights and De Witt	Onondaga	Sept. 6, 1889	3	40,000
Valatie and Kinderhook Street	Columbia	Dec. 1, 1888	2	20,000

REORGANIZATIONS, 1889.

The following roads were sold under mortgage foreclosure during the year, and thereafter reorganized as new companies, viz.:

STEAM ROADS.

NAME OF OLD COMPANY.	Name of new company.	Certificate filed.	Capital stock.
Geneva, Ithaca and Sayre.....	Geneva and Sayre....	June 19, 1889	\$1,200,000
Lackawanna and Pittsburgh.....	Lack. and Southw'rn.	May 7, 1889	2,800,000
Saratoga, Mt. McGregor and Lake George.....	Mt. McGregor.....	April 13, 1889	500,000
HORSE ROAD.			
South Ferry Railway Company.....	South Ferry Railroad Company.....	Jan. 3, 1888	150,000

CONSOLIDATION.

HUDSON CONNECTING RAILROAD COMPANY, AND THE POUGHKEEPSIE AND CONNECTICUT RAILROAD COMPANY.

Articles of consolidation and merger were filed July 23, 1889; title of new company, "Central New England and Western Railroad Company." Capital stock, \$1,600,000.

EXTENSION OF ROUTES.

The following companies, all surface street, have, during the past year, filed articles of extension of their routes.

NAME OF ROAD.	Extension filed.	Length of extension.
		Miles.
Binghamton and Port Dickinson Railway Co....	July 20, 1889	2
Canandaigua Street Railway Company.....	June 21, 1889	0.7
Genesee and Water Street Railroad Company....	April 25, 1889	1.87
Harlem Bridge, Morrisania and Fordham Railway Company.....	Oct. 5, 1888	1.50
Long Island City and Newtown Railroad Co....	Feb. 21, 1889	*
Peoples' Railroad Company of Syracuse.....	Jan. 28, 1889	2
Peoples' Railroad Company of Syracuse.....	May 6, 1889	0.85
Rochester City and Brighton Railway Company..	May 1, 1889	2.46
Rochester City and Brighton Railway Company..	June 3, 1889	1
Syracuse and Geddes Railway Company.....	Sept. 23, 1889	1
Twenty-eighth and Twenty-ninth Streets Railway Company.....	May 13, 1889	0.25

* Not given.

SURRENDER OF CAPITAL STOCK.

The capital stock of the following companies was surrendered during the year as follows:

CANANDAIGUA LAKE RAILROAD COMPANY.

Surrendered to the "Elmira and Lake Ontario Railroad Company."
Certificate filed in the office of the Secretary of State, December 31, 1888.

LONG ISLAND CITY AND FLUSHING RAILROAD COMPANY.

Surrendered to the "Long Island Railroad Company."
Certificate filed in the office of the Secretary of State, April 2, 1889.

NORWOOD AND MONTREAL RAILROAD COMPANY.

Surrendered to the "Rome, Watertown and Ogdensburgh Railroad Company."
Certificate filed in the office of the Secretary of State, August 7, 1889.

SYRACUSE, PHOENIX AND OSWEGO RAILROAD COMPANY.

Surrendered to the "Rome, Watertown and Ogdensburgh Railroad Company."
Certificate filed in the office of the Secretary of State, August 7, 1889.

DECREASE OF CAPITAL STOCK.

BROOKLYN, BATH AND WEST END RAILROAD COMPANY.

The capital stock of this company was decreased from \$1,500,000 to \$500,000.

Certificate filed in the office of the Secretary of State, December 28, 1888.

ENACTMENTS,

1889.

Chap. 38. An act to regulate the payment of fares upon railroads.

Chap. 76. An act to amend chapter six hundred and sixteen of the Laws of one thousand eight hundred and eighty-seven, entitled "An act to regulate the heating of steam passenger cars, and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto," as amended by chapter one hundred and eighty-nine of the Laws of one thousand eight hundred and eighty-eight, entitled "An act to amend chapter six hundred and sixteen, Laws of one thousand eight hundred and eighty-seven, entitled 'An act to regulate the heating of steam passenger cars, and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto.'"

Chap. 78. An act to amend section fourteen of chapter one hundred and forty of the Laws of one thousand eight hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and to repeal chapter five hundred and fifteen of the Laws of one thousand eight hundred and sixty-seven, entitled "An act in relation to railroad corporations."

Chap. 156. An act to legalize and confirm the merger and consolidation of the Washington Street and State Asylum Railroad Company and the Park Avenue Railroad Company into the Washington Street, Asylum and Park Railroad Company, in the city of Binghamton.

Chap. 193. An act to amend chapter five hundred and forty-two of the Laws of one thousand eight hundred and eighty, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations," as amended by chapter three hundred and fifty-nine of the Laws of one thousand eight hundred and eighty-five.

Chap. 236. An act to amend chapter four hundred and thirty of the Laws of one thousand eight hundred and seventy-four, entitled "An act to facilitate the reorganization of railroads sold under mortgage and providing for the formation of new companies in such cases."

Chap. 242. An act to amend section three of chapter four hundred and thirty-nine of the Laws of one thousand eight hundred and eighty-four, entitled "An act for the better protection of life and property upon the railroads of this State, to promote the safer and better management of steam railroads."

Chap. 251. An act to authorize the Keeseville, Ausable Chasm and Lake Champlain Railroad Company to charge and collect rates of fare for passengers upon its railway.

Chap. 267. An act to amend section four hundred and twenty-two of chapter six hundred and seventy-six of the Laws of one thousand eight hundred and eighty-one, entitled "An act to establish a Penal Code," relating to position of cars in passenger trains.

Chap. 277. An act to amend chapter four hundred and twenty of the Laws of one thousand eight hundred and eighty, entitled "An act to

amend chapter one hundred and twenty-three of the Laws of one thousand eight hundred and seventy-four, entitled 'An act to amend the charter of the Hudson Suspension Bridge and New England Railway Company.'"

Chap. 281. An act to amend chapter sixty-five of the Laws of one thousand eight hundred and eighty-six, entitled "An act to secure adequate compensation for the right to construct, maintain, use, operate or extend street railroads in cities and villages," as amended by section two of chapter six hundred and twenty-two of the Laws of one thousand eight hundred and eighty-seven.

Chap. 294. An act to extend the time for the completion of the Schenectady, Albany and North Adams railroad.

Chap. 353. An act to amend section three of chapter five hundred and forty-two of the Laws of one thousand eight hundred and eighty, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations," as amended by chapter three hundred and sixty-one of the Laws of one thousand eight hundred and eighty-one, and subsequent acts.

Chap. 381. An act to provide for the cash payment of wages by corporations.

Chap. 405. An act to extend the time for the completion of the Mechanicville and Fort Edward railroad.

Chap. 408. An act for the relief of the Utica Belt Line Street Railroad Company.

Chap. 426. An act to amend chapter one hundred and forty of the Laws of one thousand eight hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and the acts amendatory thereof, relating to the increase of capital stock.

Chap. 439. An act to empower the trustees of the Willard Asylum for the Insane to grant a right of way to the Geneva and Van Ettenville Railway Company through the lands of the State appurtenant to said asylum, and under the charge and management of said trustees.

Chap. 463. An act further to amend chapter three hundred and sixty-one of the Laws of one thousand eight hundred and eighty-one, entitled "An act to amend chapter five hundred and forty-two of the Laws of one thousand eight hundred and eighty, entitled 'An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations.'"

Chap. 524. An act regulating railway appliances to be used on all railway lines within the limits of the State of New York.

Chap. 531. An act to amend chapter two hundred and fifty-two of the Laws of one thousand eight hundred and eighty-four, entitled "An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof, in cities, towns and villages."

Chap. 532. An act to amend chapter three hundred and five of the Laws of one thousand eight hundred and eighty-five, entitled "An act authorizing street surface railroad companies to contract with each other, and providing for a proper system of transfer of passengers," and to permit partial abandonment of route by such railroad companies.

Chap. 555. An act to regulate the powers of the United States Harvey Way Construction Company.

Chap. 564. An act to amend chapter sixty-five of the Laws of one thousand eight hundred and eighty-six, entitled "An act to secure adequate compensation for the right to construct, maintain, use, operate or extend street railroads in cities and villages," and the act or acts amendatory thereof.

ALPHABETICAL LIST

OF COMPANIES FORMED UNDER THE LAWS OF THIS STATE.

Name of Road.	When formed.	Name of Road.	When formed.
Addison and Northern Pennsylvania..	1882	Auburn and Port Byron.....	1899
Addison, Osceola and Cowanesque Val- ley.....	1878	Auburn and Rochester.....	1896
Addison and Pennsylvania.....	1887	Auburn and Syracuse.....	1894
Adirondack.....	1839	Auburn and Willow Brook.....	1872
Adirondack.....	1863	Aurora and Buffalo.....	1832
Adirondack Estate Railroad Company	1860	Avenue C.....	1899
Adirondack Railway.....	1882	Avon, Genesee and Mount Morris....	1890
Albany.....	1861	Babylon.....	1871
Albany, Bennington and Rutland.....	1860	Baldwinsville Branch.....	1896
Albany and Boston.....	1882	Batavia, Albion and Lake Ontario.....	1898
Albany and Boston.....	1864	Batavia, Attica and Salamanca.....	1897
Albany and Kenwood.....	1863	Batavia and Cheektawaga.....	1860
Albany and Lackawanna.....	1866	Bath and Crooked Lake.....	1831
Albany and New York.....	1866	Bath and Hammondsport.....	1872
Albany and Northern.....	1861	Bay Ridge and Sea Shore.....	1878
Albany Railroad.....	1863	Bay Ridge and Sea Side.....	1871
Albany Railway.....	1863	Bay Shore.....	1866
Albany, Sandlake and Stephentown.....	1871	Belmont and Buffalo.....	1871
Albany and Saratoga.....	1862	Binghamton Central.....	1898
Albany and Saratoga Springs.....	1863	Binghamton, Dushore and Williams- port.....	1872
Albany and Schenectady.....	1847	Binghamton and Port Dickinson.....	1898
Albany and Susquehanna.....	1861	Binghamton and South-western.....	1897
Albany Terminal.....	1888	Binghamton and Susquehanna.....	1898
Albany and Vermont.....	1866	Binghamton and Williamsport.....	1892
Albany, Vermont and Canada.....	1859	Black River.....	1896
Albany and West Stockbridge.....	1836	Black River Company.....	1892
Albion and Tonawanda.....	1832	Black River and Morristown.....	1870
Allegheny Central.....	1881	Black River and St. Lawrence.....	1898
Allegheny Central.....	1882	Black River and Utica.....	1893
Allegheny and Kinzua.....	1887	Black River and Woodhull.....	1898
Amsterdam, Chuctanunda and North'n	1879	Bleecker Street and Fulton Ferry.....	1896
Amsterdam Street.....	1873	Blossburgh and Corning.....	1864
Amsterdam Electric.....	1888	Boonville and Constableville.....	1898
Arcade and Genesee River.....	1872	Boonville and Ontario.....	1898
Astoria and Hunter's Point.....	1867	Boonville and Port Ontario.....	1872
Astoria and Hunter's Point.....	1877	Boonville and Turin.....	1896
Atlantic Avenue.....	1872	Boston and Albany.....	1871
Atlantic Cable.....	1888	Boston, Albany and Schenectady.....	1877
Atlantic and Great Western.....	1859	Boston, Hartford and Erie.....	1864
Atlantic and Great Western.....	1872	Boston, Hartford and Erie Extension.....	1864
Atlantic and Great Western of New York.....	1872	Boston, Hartford and Erie Ferry Ex- tension.....	1864
Atlantic and Great Western Railroad Company of New York and Penn'a.....	1872	Boston and Henderson Harbor.....	1872
Atlantic and Ontario.....	1871	Boston, Hoosac Tunnel and Albany.....	1872
Attica and Allegheny Valley.....	1882	Boston, Hoosac Tunnel and Western.....	1877
Attica and Arcade.....	1870	Boston, Hoosac Tunnel and Western Railway.....	1881
Attica and Arcade.....	1880	Boston, New York and Chicago.....	1874
Attica and Buffalo.....	1836	Boston, New York and Western.....	1899
Attica and Hornellsville.....	1845	Boston, Rome and Oswego.....	1871
Attica, Lockport and Lake Ontario.....	1888	Boston, Saratoga and Western.....	1870
Attica and Sheldon.....	1836	Boutenberg.....	1898
Auburn City.....	1886	Bowery Bay and Hunter's Point.....	1882
Auburn and Canal.....	1832	Bradford, Eldred and Cuba.....	1881
Auburn and Deposit Air Line.....	1871	Branchport and Penn Yan.....	1896
Auburn and Homer Midland.....	1872	Breslau and Fire Island.....	1872
Auburn and Owasco Lake.....	1871	Brewerton and Syracuse.....	1896
Auburn and Owasco Lake.....	1880	Bridge Tunnel.....	1896
Auburn and Owasco Lake Electric.....	1889	Brighton (No. 1).....	1890

Name of Road.	When formed.	Name of Road.	When formed.
Brighton (No. 2)	1880	Brooklyn Steam Transit	1871
Brighton Beach	1879	Brooklyn Sub-railway	1886
Brighton Beach and New York	1880	Brooklyn and Suburban	1887
Broadway and Bowery Bay	1883	Brooklyn Underground	1881
Broadway (of Brooklyn)	1888	Brooklyn, Winfield and Newtown	1870
Broadway (of New York)	1884	Brooklyn and Winfield Railway	1869
Broadway Central Underground	1880	Broome and Delancey St. Crosstown	1886
Broadway, Lexington and Fifth Ave- nue	1884	Broome, Delancey and Spring Streets	1886
Broadway and Rockaway Beach	1880	Buffalo and Allegany Valley	1863
Broadway and Seventh Avenue	1884	Buffalo, Aurora and South-eastern	1862
Broadway Surface	1884	Buffalo and Batavia	1886
Broadway Underground	1880	Buffalo and Black Rock	1886
Broadway Underground Connecting	1880	Buffalo, Bradford and Pittsburgh	1869
Broadway and Yonkers Patent	1866	Buffalo Branch of the Erie Railway	1861
Brook Avenue	1886	Buffalo, Cayuga Valley and Pine Creek	1882
Brookfield	1888	Buffalo, Chau. Lake and Pittsburgh	1879
Brooklyn, Bath and Coney Island	1862	Buffalo City	1867
Brooklyn, Bath and Coney Island	1879	Buffalo City	1877
Brooklyn, Bath and West End	1886	Buffalo, Cleveland and Chicago R'y	1881
Brooklyn Bridge and South Ferry	1887	Buffalo and Conhocton Valley	1860
Brooklyn Bridge and South Shore	1886	Buffalo, Corning and New York	1882
Brooklyn Bridge and Brighton Beach	1887	Buffalo, Corry and Pittsburgh	1868
Brooklyn, Bushwick and Queens Co.	1886	Buffalo Creek	1869
Brooklyn Cable	1883	Buffalo Creek Extension	1874
Brooklyn Cable	1886	Buffalo Creek Transfer	1881
Brooklyn and Canarsie	1865	Buffalo Crosstown	1874
Brooklyn Central	1869	Buffalo East Side Street	1870
Brooklyn Central and Jamaica	1860	Buffalo and Erie	1882
Brooklyn City	1863	Buffalo and Erie	1867
Brooklyn City Elevated	1875	Buffalo Erie Basin	1876
Brooklyn City Elevated	1879	Buffalo and Geneva	1886
Brooklyn City, Hunter's Point and Prospect Park	1868	Buffalo and Geneva	1869
Brooklyn City and Newtown	1860	Buffalo and Great Western	1882
Brooklyn City and Ridgewood	1861	Buffalo Harbor	1863
Brooklyn City and Rockaway	1862	Buffalo and Hinsdale	1846
Brooklyn and Coney Island	1876	Buffalo and International	1867
Brooklyn and Coney Island Central	1877	Buffalo and International Bridge	1871
Brooklyn, Coney Island and Rockaway	1878	Buffalo and Jamestown	1872
Brooklyn Crosstown	1872	Buffalo, Lackawanna and Pacific	1889
Brooklyn, East New York and Rock- away	1864	Buffalo and Lake Huron	1868
Brooklyn Elevated	1884	Buffalo Lehigh	1881
Brooklyn Elevated and Atlantic Beach	1879	Buffalo and Lockport	1862
Brooklyn Elevated Railway Construc- tion Company	1882	Buffalo and New York	1861
Brooklyn Elevated Silent Safety	1874	Buffalo and New York City	1861
Brooklyn, Flatbush and Coney Island	1866	Buffalo, New York and Erie	1867
Brooklyn, Flatbush and Coney Island	1869	Buffalo, New York and Philadelphia	1871
Brooklyn, Flatbush and Coney Island Railway	1877	Buffalo and Niagara Falls	1884
Brooklyn, Flatbush and Rockaway Beach	1879	Buffalo Niagara Slip	1877
Brooklyn, Fort Hamilton, Bath and Coney Island	1886	Buffalo and Oil Creek Cross Cut	1866
Brooklyn, Fort Hamilton and Coney Island	1867	Buffalo and Pittsburgh	1862
Brooklyn, Fort Hamilton and Coney Island	1881	Buffalo, Pittsburgh and St. Louis	1882
Brooklyn Heights	1887	Buffalo, Pittsburgh and Western	1880
Brooklyn Heights Cable	1886	Buffalo, Pittsburgh and Western	1881
Brooklyn and Jamaica	1882	Buffalo and Rochester	1880
Brooklyn and Jamaica	1866	Buffalo, Rochester and Pittsburgh	1881
Brooklyn and Jersey City Ferry	1884	Buffalo, Rochester and Pittsburgh	1886
Brooklyn and Long Island Cable	1884	Buffalo, Rochester and Pittsburgh	1887
Brooklyn and Long Island City	1880	Buffalo and South Park Belt Line	1887
Brooklyn and Long Island Trunk	1883	Buffalo and South-western	1878
Brooklyn and Montauk	1880	Buffalo and State Line	1849
Brooklyn, Middle Village and Jamaica	1866	Buffalo and Spring Hill	1871
Brooklyn, Prospect Park and Flatbush	1867	Buffalo Street	1860
Brooklyn, Prospect Park and Jamaica Bay	1869	Buffalo, Syracuse and Albany	1878
Brooklyn and Queens County	1883	Buffalo, Tonawanda and Niagara Falls	1883
Brooklyn and Rockaway	1867	Buffalo and Washington	1866
Brooklyn and Rockaway Beach	1864	Buffalo and Williamsville	1868
Brooklyn, Rockaway and Coney Island	1881	Buffalo and Williamsville	1870
Brooklyn and Sea Shore	1871	Buffalo and Williamsville	1886
Brooklyn Steam Transit	1869	Buffalo, Williamsville and Northern	1888
		Burnett Street Car	1886
		Bushwick	1867
		Cairo	1884
		Calvary Cemetery, Greenpoint and Brooklyn	1886
		Campbell Hall Connecting	1889
		Canajoharie and Catskill	1890
		Canal	1878
		Canandaigua and Bath	1872

Name of Road.	When formed.	Name of Road.	When formed.
Canandaigua and Corning	1845	Citizens' Surface	1888
Canandaigua and Elmira	1852	City (Binghamton)	1884
Canandaigua Lake	1887	City Island	1884
Canandaigua and Niagara Falls	1861	City Line and Canarsie	1868
Canandaigua, Palmyra and Ontario	1872	City (Poughkeepsie)	1878
Canandaigua Railway and Transportation Company	1828	City Railway Company of New York	1888
Canandaigua Street	1886	Clayton and Theresa	1871
Canandaigua and Syracuse	1863	Clinton Avenue	1864
Canarsie, Brooklyn and Winfield	1864	Clinton and South Clinton	1863
Canarsie and Flatbush	1874	Clove Branch	1868
Canastota Northern	1886	Clyde and Sodus Bay	1863
Canton and St. Lawrence River	1885	Coeymans	1866
Canton and Waddington	1884	Cohoes and Waterford	1868
Cassadaga and Erie	1836	Cohoes and Waterford	1867
Castleton and West Stockbridge	1834	Cohoes and Waterford	1872
Carthage and Adirondack	1883	Cold Spring	1859
Carthage, Watertown and Sackett's Harbor	1869	Columbia and Rensselaer	1886
Catskill City	1885	Columbia Street and Erie Basin	1866
Catskill Horse	1874	Concourse	1880
Catskill and Ithaca	1828	Conesus Lake	1882
Catskill Mountain	1880	Coney Island Beach	1877
Catskill and Schoharie Valley	1871	Coney Island and Brooklyn	1860
Cattaraugus	1868	Coney Island Centre and Safety Rails Elevated	1880
Cayuga Lake	1867	Coney Island and East River	1876
Cayuga Midland	1871	Coney Island Electrical	1887
Cayuga Northern	1872	Coney Island Elevated	1880
Cayuga Railway	1875	Coney Island High and Low-water Mark	1877
Cayuga Southern	1878	Coney Island and Rockaway	1878
Cayuga and Susquehanna	1843	Coney Island and Sea View Elevated	1880
Cazenovia and Canastota	1868	Coney Island, Sheepshead Bay and Ocean Avenue	1880
Cazenovia and Canastota	1873	Coney Island Surface	1877
Cazenovia, Canastota and De Ruyter	1873	Coney Island Surface	1889
Cazenovia, Canastota and De Ruyter	1876	Coney Island Transit	1880
Cazenovia and De Ruyter	1872	Connecting Terminal	1881
Cedarhurst	1885	Cooperstown and Cherry Valley	1888
Central City	1860	Cooperstown and Charlotte Valley	1837
Central Crostown	1873	Cooperstown and Susquehanna Valley	1865
Central Dock and Terminal	1889	Copenhagen and Turin	1866
Central Elevated Railway	1869	Corning and Blossburgh	1861
Central Elevated Railway	1886	Corning, Cowanesque and Antrim	1873
Central of Long Island	1871	Corning and Olean	1863
Central New England and Western	1889	Corning and Painted Post	1866
Central Park, North and East River	1860	Corning and Seneca Lake	1864
Central Park and Kings Bridge	1866	Cornwall Branch	1869
Central Railroad Extension	1873	Cornwall Suspension Bridge	1868
Central Saratoga	1878	Cortland and Homer	1882
Central of Staten Island	1870	Coudersport, Hornellsville and Lackawanna	1889
Central (Staten Island)	1873	Court Street and East End	1886
Central Tunnel	1881	Court Street and River Side	1883
Central Valley	1870	Court Street and River Side	1886
Chambers Street	1877	Coxsackie and Schenectady	1887
Chambers Street	1884	Crosstown and Rochester	1889
Chambers Street Crosstown	1880	Croton Valley	1886
Chambers Street and Grand St. Ferry	1884	Cypress Hill Railway	1872
Champlain and St. Lawrence	1851	Dansville and Rochester	1832
Charlotte Lake View	1875	Davenport	1888
Charlotte and Lake View	1881	Delaware	1866
Chateaugay	1879	Delaware and North River	1889
Chateaugay	1887	Delaware and Otsego	1887
Chautauqua County	1861	Delhi and Hudson River	1882
Chautauqua Lake	1874	Delhi and Middletown	1871
Chautauqua Lake	1885	Deerfield and Utica	1888
Chautauqua Lake	1886	Dexter and Ontario	1889
Chautauqua Valley	1882	Division Avenue	1863
Chemung	1845	Dry Dock, East Broadway and Battery	1864
Chemung and Ithaca	1837	Dunkirk, Allegheny Valley and Pittsburgh	1873
Chemung Valley	1863	Dunkirk and Chautauqua Lake	1866
Cherry Valley, Sharon and Albany	1869	Dunkirk, Chautauqua Lake and Pittsburgh	1873
Cherry Valley and Mohawk River	1864	Dunkirk and Fredonia	1886
Cherry Valley and Spraker's Horse Power Railroad Company	1860	Dunkirk and Junction	1879
Cherry Valley and Susquehanna	1836	Dunkirk, Warren and Pittsburgh	1867
Christopher and Teuth Street	1873	Dunkirk, Warren and Pittsburgh	1870
Christopher St. and James Slip Ferry	1885		
Citizens' Electric	1887		
Citizens' Railway	1885		
Citizens' Street R. R. Co. of Rochester	1885		

DATE WHEN COMPANIES FORMED.

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Name of Road.	When formed.	Name of Road.	When formed.
Dutchess.....	1832	Flushing and College Point Electric Street.....	1887
Dutchess.....	1836	Flushing and College Point Street.....	1886
Dutchess and Columbia.....	1866	Flushing, North Shore and Central.....	1874
Dutchess Extension.....	1889	Flushing and North Side.....	1868
East Branch Connecting.....	1889	Flushing Village.....	1871
East Brooklyn Railroad.....	1874	Flushing and Woodside.....	1864
East Brooklyn Railway.....	1873	Fonda and Fultonville.....	1875
East Brooklyn, Winfield and Newtown.....	1867	Fonda, Johnstown and Gloversville.....	1867
East Buffalo Terminal.....	1883	Forestport.....	1863
East Chester.....	1886	Fort Ann and Mount Hope.....	1871
Eastern Branch of the Dutchess and Columbia.....	1868	Fort Edward, Glens Falls and Sandy Hill.....	1863
Eastern Railroad Company of Long Island.....	1879	Fort Hamilton and Coney Island.....	1881
East Genesee Street and Seward Ave.....	1871	Fort Hamilton and New York Elevated.....	1888
East Genesee Street and Seward Avenue Railway.....	1881	Fort Plain and Richfield Springs.....	1887
East New York, Bayside and Ozone Park.....	1885	Fort Plain Street.....	1887
East New York and Jamaica.....	1860	Fort Pond Bay.....	1863
East New York and Jamaica Bay.....	1865	Forty-second Street Crosstown.....	1877
East and North River.....	1861	Forty-second St. and Grand St. Ferry.....	1863
East and North River.....	1884	Forty-second Street, Manhattanville and St. Nicholas Avenue.....	1878
East River Bridge and Coney Island Transit.....	1881	Fourteenth Street District Railway.....	1886
East River and Connecticut Railway.....	1881	Fourth Ward Railway Company of Syracuse.....	1868
East River and Newtown.....	1885	Frankfort and Ilion.....	1871
East River Tunnel.....	1885	Franklin Avenue.....	1867
East Side and Mt. Vernon Railway.....	1881	Fredonia and Van Buren.....	1836
East Side and New Rochelle Patent Railway.....	1866	Friendship.....	1881
East Side Railway.....	1868	Fulton.....	1864
East Side of Rochester.....	1867	Fulton and Cortland Street Ferry.....	1884
East and West Ferries.....	1867	Fulton and Cortland Street Ferry Railway.....	1884
Eighth Avenue.....	1865	Fulton Elevated.....	1884
Eleventh Ward Street.....	1869	Fulton Ferry and Canarsie Bay.....	1868
Elmira, Canandaigua and Niagara Falls.....	1867	Fulton Ferry and Prospect Park.....	1867
Elmira Connecting.....	1882	Fulton Ferry and Tenth Avenue.....	1865
Elmira, Cortland and Northern.....	1884	Fulton and Oswego.....	1885
Elmira and Horseheads.....	1871	Fulton and Oswego Falls Street.....	1885
Elmira, Jefferson and Canandaigua.....	1889	Fulton Street Crosstown.....	1887
Elmira and Lake Ontario.....	1886	Fulton, Wall Street and Cortland Street Ferries.....	1885
Elmira State Line.....	1872	Gallupville.....	1869
Elmira Transfer.....	1885	Garnerville.....	1875
Elmira and Williamsport.....	1832	Geddes Street Railway.....	1886
Elmira and Williamsport.....	1860	Genesee Falls.....	1886
Erle and Black Rock.....	1882	Genesee and Hudson.....	1862
Erle and Cattaraugus.....	1837	Genesee Valley.....	1866
Erle and Central New York.....	1883	Genesee Valley Canal.....	1880
Erle and Genesee Valley.....	1868	Genesee Valley Junction.....	1882
Erle International.....	1872	Genesee Valley Terminal.....	1882
Erle and New England.....	1866	Genesee and Water Street.....	1866
Erle and New York City.....	1862	Genesee.....	1848
Erle and Niagara River.....	1882	Genesee and Pittsford.....	1836
Erle Railway.....	1861	Geneva and Canandaigua.....	1828
Erle, Rochester and Lake Ontario Terminal.....	1884	Geneva and Cattaraugus.....	1837
Far Rockaway Beach.....	1881	Geneva and Hornellsville.....	1876
Far Rockaway Branch.....	1868	Geneva, Hornellsville and Pine Creek.....	1876
Ferry Crosstown.....	1885	Geneva and Ithaca.....	1870
Fifth Avenue.....	1884	Geneva, Ithaca and Athens.....	1874
Fifth Avenue.....	1885	Geneva, Ithaca and Sayre.....	1877
Fifth Ward.....	1868	Geneva and Lyons.....	1878
Fifty-second, Fifty-third Streets and Boulevard.....	1886	Geneva and Sayre.....	1889
Fifty-ninth Street.....	1885	Geneva and South-western.....	1871
First Avenue and Jersey Ferries.....	1864	Geneva, South-western and Hornellsville.....	1873
Fish House and Amsterdam.....	1832	Geneva and Van Ettenville.....	1889
Fishkill.....	1868	Gilbert Elevated.....	1872
Fishkill and Matteawan Street.....	1886	Gilboa.....	1839
Fishkill and Newburgh.....	1876	Glendale and East River.....	1874
Fitchburgh.....	1887	Glens Falls.....	1867
Flatbush, Coney Island and Canarsie.....	1864	Glens Falls, Sandy Hill and Fort Edw'd.....	1885
Flatbush, Coney Island Park and Course.....	1876	Glens Falls Street.....	1885
Flushing.....	1852	Gloversville and Kingsboro.....	1874
Flushing.....	1863	Gloversville, Mayfield and Northville.....	1868
Flushing and College Point.....	1866	Gloversville and Northville.....	1872
		Goshen and Albany.....	1842
		Goshen and Deekertown.....	1868
		Goshen and New Jersey.....	1837

Name of Road.	When formed.	Name of Road.	When formed.
Grand Street.....	1859	Hudson Tunnel.....	1873
Grand Street Central Transit.....	1884	Hudson Tunnel.....	1880
Grand Street Ferry and Middle Village.....	1869	Hudson Tunnel of New York.....	1880
Grand Street and Maspeth.....	1859	Hudson Tunnel Railway.....	1881
Grand Street and Newtown.....	1860	Hudson Valley.....	1870
Grand Street, Prospect Park and Flat- bush.....	1870	Hudson and West Shore.....	1880
Grand View Beach.....	1889	Hunter's Point Avenue and Calvary Cemetery.....	1889
Great Ausable.....	1828	Hunter's Point and Flushing.....	1872
Great Valley and Bradford.....	1841	Hunter's Point, Ravenw'd and Astoria.....	1864
Greene.....	1838	Hunter's Point and Rockaway Beach.....	1867
Greene.....	1870	Hunter's Point and South Side.....	1870
Greenpoint and Calvary.....	1865	Huntington Street.....	1887
Greenpoint and Lorimer Street.....	1885	Huron Street.....	1875
Greenpoint, Prospect Park and Green- wood.....	1866	International.....	1861
Greenpoint and Williamsburgh.....	1864	Iron Hill.....	1873
Greenwich and Johnsonville.....	1869	Island.....	1868
Greenwich and Johnsonville.....	1874	Ithaca and Athens.....	1870
Greenwich and Johnsonville Railway.....	1879	Ithaca and Auburn.....	1868
Greenwood and Coney Island.....	1872	Ithaca, Auburn and Western.....	1876
Greenwood Lake and Port Jervis.....	1848	Ithaca and Cortland.....	1868
Hamilton Avenue and Prospect Park.....	1869	Ithaca and Geneva.....	1882
Hamilton Avenue, Prospect Park and Flatbush.....	1868	Ithaca and Oswego.....	1828
Hamilton Ferry and Canarsie.....	1870	Ithaca and Port Benwick.....	1884
Hancock and Pennsylvania.....	1889	Ithaca Street.....	1885
Hancock and State Line.....	1889	Ithaca and Tonawanda.....	1866
Harlem Bridge, Morrisania and Ford- ham.....	1863	Jackson and Steinway Avenue Railroad Company of Long Island.....	1879
Harlem Crosstown.....	1885	Jamaica and Brooklyn Road.....	1880
Harlem Extension.....	1870	Jamaica and Middle Village.....	1866
Harlem River.....	1883	Jamaica, Woodhaven and Brooklyn.....	1872
Harlem River and High Bridge.....	1863	Jamestown.....	1871
Harlem River and Port Chester.....	1867	Jamestown and Northern.....	1868
Harlem River and Port Chester Rapid Transit.....	1890	Jamestown Short Line Railway.....	1888
Harlem River and Woodstock.....	1886	Jamestown Street.....	1882
Harlem River and Tarrytown.....	1864	Janesville.....	1836
Harlem and Riverdale Park.....	1885	Jerome Avenue.....	1889
Hayt's Corners, Ovid and Willard.....	1882	Jerome Park.....	1890
Hempstead and Jamaica.....	1865	Jerome Park Branch.....	1876
Hempstead and Smithtown.....	1873	Jersey City and Albany.....	1873
Hempstead and Rockaway.....	1870	Jersey City and Albany Railway.....	1879
Herkimer and Mohawk Street.....	1871	Jersey City and Albany Railway Com- pany of the States of New York and New Jersey.....	1879
Herkimer, Newport and Poland Narrow Gauge.....	1880	Jersey Ferries and First Avenue.....	1866
Herkimer and Trenton.....	1836	Johnstown.....	1886
Hicksville and Cold Spring Branch.....	1863	Johnstown, Gloversville and Kingsboro.....	1874
Hicksville and Huntington.....	1865	Jordan and Skaneateles.....	1837
High Bridge.....	1866	Junction.....	1870
High Bridge Elevated Incline.....	1883	Junction Railway.....	1866
Highland Junction.....	1881	Kanona and Plattsburgh.....	1886
Highland Trans-Hudson.....	1881	Kaaterskill.....	1893
Hobart Branch.....	1884	Keeseville, Ausable Chasm and Lake Champlain.....	1889
Honeoye.....	1836	Keeseville and Montreal.....	1869
Hosack Tunnel and Saratoga Railway.....	1881	Kinderhook and Hudson.....	1889
Hornell Street.....	1888	Kinderhook, Valatie and Stuyvesant.....	1887
Hornellville.....	1888	Kinderhook, Valatie and Niverville.....	1887
Hornellville and Almond Street.....	1873	Kings Bridge Cable Railway.....	1886
Hornellville and Conhocton Valley.....	1882	Kings Bridge, High Bridge and Forty- second Street.....	1864
Hornellville and West Union.....	1889	Kings Bridge and Yonkers.....	1876
Horseheads and Elmira Avenue.....	1871	Kings County.....	1878
Houston and Hoboken.....	1885	Kings County Central.....	1876
Houston, West Avenue & Pavonia Ferry.....	1874	Kings County Elevated.....	1879
Hudson Avenue.....	1867	Kingston City.....	1879
Hudson and Berkshire.....	1828	Kingston and Rondout.....	1866
Hudson and Boston.....	1855	Kingston Turnpike and Railroad Co.....	1836
Hudson Connecting.....	1887	Kingston, Warwick and Easton.....	1883
Hudson and Delaware.....	1830	Lackawanna and Pittsburgh.....	1882
Hudson Electric.....	1888	Lackawanna and South-western.....	1889
Hudson and Kinderhook.....	1871	Lake Champlain and Moriah.....	1886
Hudson and Mohawk.....	1869	Lake Champlain and Ogdensburgh.....	1832
Hudson River.....	1846	Lake Mahopac and Connecticut.....	1886
Hudson River and Boston.....	1845	Lake Ontario.....	1874
Hudson River West Shore.....	1867	Lake Ontario and Auburn.....	1866
Hudson and St. Lawrence.....	1872	Lake Ontario, Auburn and New York.....	1862
Hudson, Suspension Bridge and New England.....	1870	Lake Ontario and Hudson River.....	1887
		Lake Ontario Shore.....	1868

Name of Road.	When formed.	Name of Road.	When formed.
Lake Ontario Southern.....	1880	Metropolitan Transit.....	1872
Lake and River Improvement and Rail- road Land Company of the New York Wilderness.....	1865	Middleburgh and Schoharie.....	1867
Lake Shore and Michigan Southern.....	1869	Middle Central.....	1878
Lansingburgh and Cohoes.....	1880	Middletown and Crawford.....	1868
Lansingburgh and Troy.....	1853	Middletown Horse.....	1870
Lansingburgh and Troy.....	1872	Middletown Street.....	1880
Larchmont Horse.....	1888	Middletown, Unionville and Water Gap.....	1866
Laurel Hill, New Calvary and Lutheran Cemetery.....	1885	Middle Village.....	1867
Lawrenceville and Erie.....	1874	Midwout, Amersfort and Coney Island.....	1877
Lebanon Springs.....	1852	Mohawk and Hudson.....	1826
Lehigh and Hudson River.....	1882	Mohawk and Ilion (horse).....	1870
Lehigh Valley.....	1882	Mohawk and Lake Erie Railway.....	1881
Lehigh Valley.....	1882	Mohawk and Moose River.....	1887
Lewiston.....	1836	Mohawk and St. Lawrence Railroad	
Lexington Ave. and Fourteenth Street.....	1884	Navigation Company.....	1837
Lexington Avenue and South Ferry.....	1886	Mohawk and Susquehanna Valley.....	1867
Lincoln Park and Charlotte.....	1889	Mohawk Valley.....	1881
Little Falls, Dolgeville and Piseco Lake.....	1883	Mohawk Valley and Piseco.....	1863
Little Falls, Van Hornesville and Ot- sego Lake Narrow Gauge.....	1889	Monroe and Greenwood Lake.....	1877
Liverpool and Syracuse.....	1868	Montague Street Railway.....	1885
Lockport and Batavia.....	1836	Montgomery and Erie.....	1866
Lockport and Buffalo.....	1871	Monticello, Fallsburgh and New York.....	1868
Lockport and Niagara Falls.....	1834	Monticello and Port Jervis.....	1868
Lockport and Northern.....	1849	Montreal and Plattsburgh.....	1863
Lockport Street.....	1885	Morris Avenue.....	1885
Lockport and Youngstown.....	1836	Mount McGregor.....	1889
Locust Grove and Brighton Beach.....	1879	Mount Prospect and Carroll Street.....	1873
Long Beach Marine.....	1881	Mount Vernon and East Chester.....	1885
Long Island.....	1834	Mount Vernon and East Chester.....	1887
Long Island City and Calvary Cemetery.....	1871	Mount Vernon and Yonkers.....	1886
Long Island City and Flushing.....	1881	Myrtle Avenue Branch.....	1881
Long Island City and Manhattan Beach.....	1883	Nanuet and New City.....	1871
Long Island City and Maspeth.....	1873	Nassau.....	1855
Long Island City and Newtown.....	1883	Nassau Cable.....	1894
Long Island City and Sea Beach.....	1886	Neverink Valley.....	1889
Long Island City Shore.....	1874	Newark.....	1836
Long Island Elevated Railway.....	1886	New Brighton and Onondaga Valley.....	1869
Lyons Street Surface.....	1889	Newburgh, Dutchess and Connecticut.....	1877
Madison Ave. and Eighty-sixth Street.....	1885	Newburgh Horse.....	1888
Madison Ave. and Twenty-third Street.....	1845	Newburgh Street Railway.....	1886
Madison Avenue Underground.....	1880	Newburgh and Kingston.....	1869
Madison County.....	1829	Newburgh and Middletown.....	1864
Malhops Falls.....	1884	Newburgh and Midland.....	1870
Main and Ohio Street.....	1869	Newburgh and New York Railroad.....	1864
Malden.....	1837	Newburgh and New York Railroad.....	1865
Malden.....	1863	Newburgh and Poughkeepsie.....	1887
Malden and Canada.....	1883	Newburgh and Walkill Valley.....	1868
Manhattan Beach Extension.....	1879	New England, New York and Pennsyl- vania.....	1878
Manhattan Beach and West Brighton.....	1879	New England, Lackawanna and Pitts- burgh.....	1882
Manhattan Railroad.....	1879	New England and South-western.....	1885
Manhattan Railway.....	1854	New England and Western.....	1887
Manhattan Railway.....	1867	New Jersey and Hudson River.....	1881
Manhattan Surface.....	1887	New Jersey and New England.....	1873
Manhelfm and Salisbury.....	1834	New Jersey and New York.....	1875
Maple Avenue.....	1887	New Jersey and New York Extension.....	1886
Marginal.....	1877	New Jersey and Staten Island Junc- tion.....	1886
Marine.....	1878	New Rochelle and Pelham.....	1885
Maspeth Railroad and Bridge Com- pany.....	1868	New Rochelle Street Horse Railroad.....	1885
Massena Springs and Fort Covington.....	1884	New Rochelle Street Horse Railroad.....	1885
Mayville Extension.....	1881	Newtown and Flushing.....	1871
Mayville and Portland.....	1832	New Williamsburgh and Flatbush.....	1874
Mechanicville and Fort Edward.....	1880	New York.....	1860
Medina and Darien.....	1884	New York and Albany.....	1832
Medina and Lake Ontario.....	1836	New York and Albany.....	1867
Melrose and West Morrisania.....	1886	New York and Atlantic.....	1880
Metropolitan Crosstown.....	1889	New York and Atlantic Coast.....	1880
Metropolitan Elevated.....	1878	New York, Bay Ridge and Jamaica.....	1876
Metropolitan Railroad.....	1864	New York and Boston.....	1869
Metropolitan Surface.....	1864	New York, Boston and Albany.....	1880
Metropolitan Surface.....	1886	New York, Boston, Albany and Scho- nectady.....	1880
Metropolitan Surface.....	1886	New York and Boston Extension.....	1872
Metropolitan Transit.....	1867	New York, Boston and Montreal.....	1873
		New York and Boston Inland.....	1882
		New York, Boston and Northern.....	1873

Name of Road.	When formed.	Name of Road.	When formed.
New York and Brighton Beach	1879	New York and Rockaway	1871
New York and Brooklyn Elevated	1880	New York and Rockaway Beach	1876
New York and Brooklyn Marine	1880	New York, Rockaway and Long Island	1880
New York, Brooklyn and Manhattan Beach	1885	New York, Rutland and Montreal	1883
New York, Brooklyn and Rockaway	1881	New York and Sea Beach Railroad	1876
New York, Brooklyn and Sea Beach	1878	New York and Sea Beach Railway	1883
New York, Brooklyn and Sea Shore	1877	New York, Sea Beach and Coney Island	1878
New York and Brighton Beach	1878	New York and South Side	1874
New York Cable	1884	New York State	1873
New York and Canada	1872	New York Suburban Railway	1886
New York Central	1853	New York Surface Railway	1886
New York District Railway	1886	New York and Troy	1862
New York and Pallsade	1885	New York Tunnel	1880
New York Central and Hudson River	1870	New York Underground	1880
New York Central, Hudson River and Port Orange	1884	New York Underground Extension	1874
New York Central Niagara River	1877	New York, Utica and Ogdensburg	1870
New York, Chicago and St. Louis Rail- way	1881	New York and Westchester	1887
New York, Chicago and St. Louis	1887	New York, Westchester and Boston	1872
New York City	1884	New York and Westchester County	1859
New York City Crosstown	1863	New York, Westchester and Putnam	1877
New York City Underground	1868	New York and Western	1853
New York City and Northern	1878	New York Western Midland	1872
New York City Rapid Transit	1872	New York, West Shore and Buffalo	1880
New York and Coney Island	1879	New York, West Shore and Buffalo Railway	1881
New York, Coney Island and Rockaway	1879	New York, West Shore and Chicago	1870
New York and Connecticut	1846	New York and White Plains	1871
New York, Connecticut and Eastern, of New York	1880	New York, Woodhaven and Rockaway	1877
New York and Croton River	1871	New York and Yonkers	1859
New York and Croton River Extension	1872	Niagara Bridge and Canandaigua	1858
New York, Danbury and Boston	1883	Niagara Falls	1871
New York and East River	1882	Niagara Falls Branch	1876
New York Elevated	1872	Niagara Falls, Buffalo and New York	1882
New York and Erie	1832	Niagara Falls and Lake Ontario	1882
New York and Flushing	1859	Niagara Falls and Lewiston	1849
New York, Fordham and Bronx River	1883	Niagara Falls and Suspension Bridge	1883
New York, Port Hamilton and Coney Island	1880	Niagara Falls and Whirlpool Railway	1886
New York, Greenwood and Coney Island	1879	Niagara River	1862
New York Harbor	1887	Niagara River and Erie	1889
New York and Harlem	1831	Niagara River and New York Air Line	1872
New York and Hempstead	1871	Niagara Street	1859
New York and Hempstead Plains	1870	Ninth Avenue	1859
New York and Highland Suspension Bridge Company	1869	North and East Greenbush	1882
New York, Housatonic and Northern	1864	North and East River	1885
New York and Jamaica	1859	Northern	1845
New York, Kingston and Syracuse	1872	Northern Adirondack	1883
New York, Lackawanna and Western	1880	Northern Adirondack Extension	1886
New York and Lake Mahopac	1861	Northern Air Line	1909
New York, Lake Erie and Western	1878	Northern Central New York	1867
New York and Long Beach	1880	Northern Extension of Rochester, Nunda and Pittsburgh	1872
New York and Long Island	1887	Northern New York	1870
New York, Long Island and Rockaway	1879	Northern Railroad Company of Long Island	1881
New York and Mahopac	1871	Northern Slackwater and Railroad Co.	1846
New York and Manhattan Beach	1877	North New York	1885
New York and Massachusetts	1887	North Park	1872
New York and Newburgh	1854	North River	1880
New York and New England	1873	North River	1881
New York and New Jersey	1873	North River and Wall Street Ferry	1862
New York and New Jersey Tunnel	1883	North Second Street and Middle Village	1871
New York and New Rochelle	1866	North Side of Long Island	1867
New York Northern	1880	North Side Railroad Company of Rochester	1887
New York Northern	1883	North Side (Staten Island)	1871
New York Northern Central	1887	North Shore	1863
New York Northern Central	1865	North Shore of Long Island	1870
New York and North Salem	1871	North Shore and Port Washington	1874
New York, Ontario and Western	1880	Norwood and Montreal	1884
New York and Oswego Midland	1866	Nostrand Avenue and Park	1870
New York, Pennsylvania and Ohio	1880	Nyack and Northern	1869
New York, Pennsylvania and Western	1881	Oak Hill Iron	1880
New York Quick Transit	1874	Ontario Valley	1883
New York Railway	1871	Ocean Bay and Sheepshead Bay Rail- way	1881
New York, Richfield Springs and Coop- erstown	1882	Ocean Palace Elevated	1877
		Ocean Parkway Transit	1888
		Ogdensburg	1867
		Ogdensburg, Clayton and Rome	1883
		Ogdensburg and Lake Champlain	1864

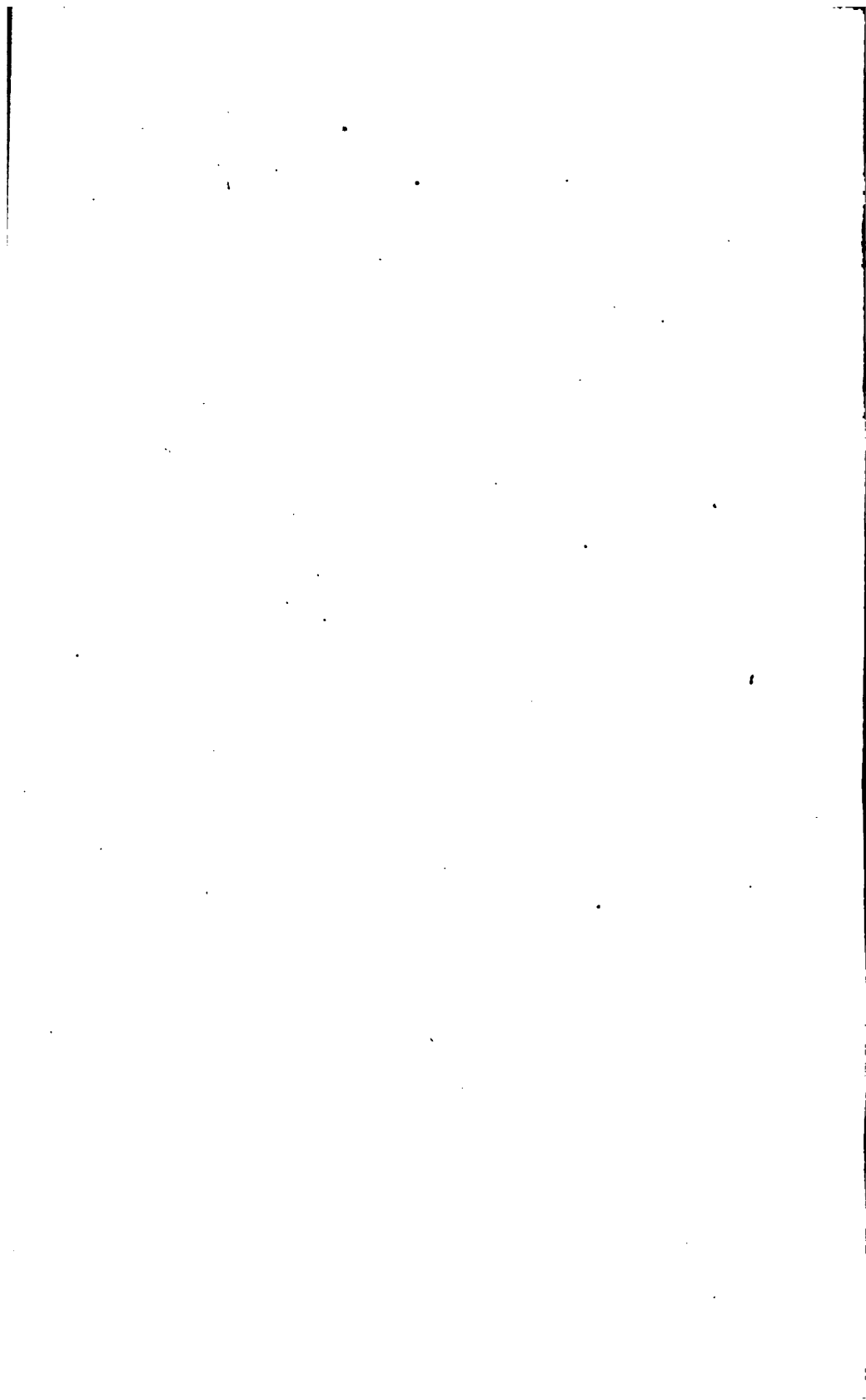
Name of Road.	When formed.	Name of Road.	When formed.
Ogdensburg and Morristown.....	1871	Port Chester and Tarrytown.....	1882
Ogdensburg and Morristown.....	1877	Port Chester and Rye Beach Street....	1887
Ogdensburg Street Railway.....	1885	Port Chester, White Plains and Tarry- town Street.....	1888
Olean.....	1881	Port Dickinson and Chenango River....	1881
Olean, Bradford and Warren.....	1878	Port Jervis and Monticello.....	1875
Olean Street.....	1880	Port Jervis, Monticello and New York....	1886
Olean and Salamanca.....	1882	Port Jervis and Suburban.....	1889
Oneida.....	1885	Port Morris and Westchester.....	1861
Oneida Horse.....	1874	Potsdam and Montreal.....	1881
Oneida, Oneonta and New York.....	1889	Potsdam and Watertown.....	1852
Oneida Street.....	1887	Poughkeepsie Bridge.....	1888
Oneida Valley.....	1864	Poughkeepsie City.....	1866
One Hundred and Fifty-fifth Street....	1886	Poughkeepsie and Connecticut.....	1888
One Hundred and Sixteenth Street and Port Lee Ferry.....	1885	Poughkeepsie Connecting.....	1887
One Hundred and Twenty-fifth Street....	1871	Poughkeepsie and Delaware Valley....	1887
Oneonta and Earlville.....	1872	Poughkeepsie and Eastern.....	1866
Oneonta and Earlville.....	1889	Poughkeepsie Grand Junction.....	1879
Oneonta and Otsego Valley.....	1887	Poughkeepsie and Grand Junction....	1879
Oneonta and Richfield Springs.....	1889	Poughkeepsie, Hartford and Boston....	1875
Oneonta Street.....	1887	Poughkeepsie, Hartford and New England.....	1887
Ontario Southern.....	1876	Poughkeepsie and South-eastern.....	1886
Orange County.....	1877	Poughkeepsie and South-western.....	1883
Orange County.....	1889	Poughkeepsie Terminal.....	1887
Ossining.....	1888	Prospect Park and Clarkson Street....	1878
Oswego, Binghamton and New York.....	1855	Prospect Park and Coney Island.....	1867
Oswego City (Street).....	1870	Prospect Park and Coney Island.....	1875
Oswego City and Town.....	1872	Prospect Park and Flatbush.....	1876
Oswego and Cortland.....	1836	Prospect Park and Sea Side.....	1879
Oswego Northern and Eastern.....	1863	Prospect Park and South Brooklyn....	1888
Oswego and Rome.....	1863	Putnam and Dutchess.....	1871
Oswego Street.....	1885	Queen City Street.....	1887
Oswego and Syracuse.....	1839	Queens County.....	1871
Oswego and Troy.....	1854	Queens Railway.....	1872
Oswego and Utica.....	1836	Rensselaerville and Berne.....	1869
Otis Elevating Railway.....	1885	Rensselaer and Saratoga.....	1882
Otsego.....	1882	Rhinebeck and Connecticut.....	1870
Ottawa, St. Lawrence and Schenectady	1885	Richfield Springs and Cherry Valley....	1882
Ottawa, Waddington and New York Railway and Bridge Company of New York.....	1884	Richfield Springs and Otsego Lake....	1866
Owasco River Railway.....	1881	Richmond County.....	1885
Oyster Bay Extension.....	1886	Ricker Avenue and Sanford's Point....	1886
Park Avenue.....	1870	Rochester.....	1833
Park Avenue.....	1882	Rochester Cable.....	1887
Peekskill Valley.....	1887	Rochester and Canal.....	1831
Pelham Park.....	1884	Rochester and Charlotte.....	1886
Pelham and Port Chester.....	1872	Rochester and Charlotte.....	1881
Pelham and Traver's Island.....	1889	Rochester and Charlotte Boulevard....	1873
Penfield and Canal.....	1887	Rochester City and Brighton.....	1862
Pennsylvania and Erie Coal and Rail- way Company.....	1875	Rochester Electric.....	1887
Pennsylvania, Poughkeepsie and Boston.....	1887	Rochester City and Brighton Terminal....	1887
Pennsylvania, Slatington and New England.....	1882	Rochester and Genesee Valley.....	1851
Pennsylvania and Sodus Bay.....	1870	Rochester and Genesee Valley Canal....	1879
Penn Yan and Geneva.....	1875	Rochester and Glen Haven.....	1888
Penn Yan and New York.....	1877	Rochester and Honeyo Valley.....	1888
People's.....	1880	Rochester, Hornellsville and Lacka- wanna.....	1886
People's Electric Street.....	1888	Rochester, Hornellsville and Pine Creek	1872
People's Rapid Transit.....	1888	Rochester and Irondequoit.....	1878
People's Surface Railway.....	1888	Rochester and Lake Beach.....	1888
People's, Syracuse.....	1887	Rochester and Lake Ontario.....	1852
Perry.....	1882	Rochester and Lake Ontario.....	1879
Perth Amboy.....	1885	Rochester, Lake Side and Braddock's Bay.....	1881
Piermont and Nyack.....	1864	Rochester and Lockport.....	1837
Piermont West Shore.....	1857	Rochester, Lockport and Niagara Falls	1860
Pine Plains and Albany.....	1872	Rochester, New York and Pennsylvania	1880
Pine Plains and Rhinebeck.....	1873	Rochester, New York and Pennsylvania	1881
Pittsburgh, Chautauqua and Lake Erie.....	1888	Rochester, Nunda and Pennsylvania....	1870
Pittsburgh, Lackawanna and North Eastern.....	1883	Rochester, Nunda and Pennsylvania....	1872
Pittsburgh, Titusville and Buffalo.....	1880	Rochester, Nunda and Pennsylvania Extension.....	1872
Pittsburgh and Montreal.....	1860	Rochester, Nunda and Pittsburgh.....	1877
Pittsburgh and Rouse's Point.....	1861	Rochester and Ontario Belt.....	1882
Portage and Cuba Low Grade.....	1882	Rochester and Pine Creek.....	1870
Port Byron and Auburn.....	1829	Rochester and Pittsburgh.....	1863
		Rochester and Pittsburgh.....	1881
		Rochester and Pittsburgh.....	1882
		Rochester and Southern.....	1862

Name of Road.	When formed.	Name of Road.	When formed.
Warren County.....	1832	Westfield and Chautauqua.....	1866
Warren, Sugar Grove and Mayville....	1886	Westport and Kingdom.....	1866
Warsaw and Le Roy.....	1864	West Shore.....	1866
Warwick.....	1837	West Shore.....	1866
Warwick Valley.....	1860	West Shore Hudson River.....	1866
Washington County.....	1837	West Shore and International Bridge.....	1862
Washington County Central.....	1865	West Side.....	1864
Washington Street Asylum and Park..	1887	West Side Elevated Patent Railway ...	1866
Washington Street and State Asylum..	1872	West Side of Rochester.....	1887
Water and Clinton Street.....	1873	West Side Street.....	1887
Waterford and Cohoes.....	1863	West Side and Yonkers Patent.....	1866
Waterford and Cohoes.....	1863	West Troy and Green Island.....	1871
Watertown and Cape Vincent.....	1836	Williamsport and Binghamton.....	1887
Watertown and Rome.....	1832	Wharton Valley.....	1869
Watertown Street Railway.....	1887	Whitehall and Plattsburgh.....	1866
Watervliet and Schenectady.....	1836	Whitehall and Plattsburgh.....	1866
Watervliet Turnpike and Railroad Co..	1862	Whitehall and Rutland.....	1833
Watkins and Havana Street.....	1872	Whitestone and Westchester.....	1872
Waverly and State Line.....	1867	Williamsburgh and Coney Island.....	1864
Wellsville, Bolivar and Eldred.....	1881	Williamsburgh and Flatbush.....	1866
Wellsville, Coudersport and Pine Creek	1882	Williamsburgh and Newtown.....	1866
Wellsville and Fillmore.....	1882	Williamsport and Elmira.....	1860
Wellsville, Honeoye and Ceres.....	1882	Williamstown and Redfield.....	1866
West Brooklyn.....	1887	Windsor Beach and Ontario.....	1887
Westchester.....	1863	Woodlawn and Butternut Street.....	1866
Westchester County.....	1866	Yates Avenue and Flatbush.....	1880
Westchester County.....	1878	Yonkers.....	1873
Westchester County.....	1884	Yonkers.....	1886
Westchester County and New York City.....	1860	Yonkers and New York.....	1864
Westchester Railway.....	1881	Yonkers Rapid Transit.....	1879
West End and Glenwood.....	1876	Yonkers Street.....	1866
Western New York and Pennsylvania..	1887	Youngstown and Buffalo.....	1866

RAILROAD LAWS.

THE GENERAL ACT OF 1850, AS AMENDED BY SUBSEQUENT
ACTS—REVISED STATUTES REFERRED TO IN SECTION 1,
CHAPTER 140, LAWS OF 1850—STATUTES RELATING GENE-
RALLY TO RAILROADS—SECTIONS OF THE CRIMINAL AND
PENAL CODES APPLYING TO RAILROAD CORPORATIONS. 3

COMPILED BY THE BOARD OF RAILROAD COMMISSIONERS.



GENERAL RAILROAD ACT.

CHAP. 140, LAWS OF 1850.

AN ACT to authorize the formation of railroad companies and to regulate the same.

Section 1. Manner of organization; articles to be filed in office of Secretary of State.

Section 2. Conditions of filing.

Section 3. Evidence of incorporation.

Section 4. Manner of subscribing for additional stock.

Section 5. Directors and their election; vacancies; inspectors of election; qualifications for director; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles; not to authorize increase of fare.

Section 6. Officers, how appointed.

Section 7. Subscriptions, how paid and how forfeited.

Section 8. Stock declared personal estate; company prohibited from purchasing the same.

Section 9. Capital stock; how it may be increased; notice to be published; penalties for violation.

Section 10. Liabilities of stockholders.

Section 11. Representative stock.

Section 12. Payment of laborers' wages; liability of railroad company; notice to be given railroad company, and what to state; how verified and served; when actions to be commenced.

Section 13. How title to real estate is acquired.

Section 14. By petition to Supreme Court; allegations necessary; copy petition upon whom served:

1. How served on residents.
2. How served on non-residents: if residence known, copy to be sent by mail.
3. How served on infants.
4. How served on idiots.
5. Service where residence is unknown.
6. Court to appoint guardian for infants.
7. Service in cases not enumerated.

Section 15. Appraisal of damages.

Section 16. Commissioners of appraisal: commissioners to make report to Supreme Court.

Section 17. On report being made; company to give notice; report, how confirmed.

Section 18. Order, where to be recorded; its effect where company neglects to have order recorded; real estate thus acquired for public use; appeals, when heard; new appraisal.

Section 19. Adverse claims to compensation; how settled.

Section 20. Protection of unknown parties; amending proceedings.

Section 21. Proceedings when title is defective; additional land, how acquired; water rights; right of way; acquiring by purchase; condemnation; limitation; proviso in case of mortgagee or receiver.

- Section 22.** Map of route of railroad to be filed before construction; notice to occupants of lands; objections to route, how made; the application to Supreme Court to be accompanied with map of proposed alterations; court to appoint commissioners to examine; who may affirm or alter route; engineer, on commission, must concur; determination, map and testimony to be filed; appeals; a court may affirm route or adopt alteration; the pay of commissioners.
- Section 23.** Directors may change route; survey; may acquire land; alteration in city or village; compensation; prohibits alteration when certain bonds have been issued.
- Section 24.** Crossings and intersections; how additional lands for, taken.
- Section 25.** State lands, how acquired by company.
- Section 26.** Title, how acquired; when trustees, guardian or committee are not authorized to sell.
- Section 27.** Weight of iron rails on grades, etc.; how to apply act.
- Section 28.** Additional powers conferred:
1. May enter upon lands for purpose of survey.
 2. May hold voluntary grants of real estate.
 3. May purchase, hold and use real estate; reference to Indian lands.
 4. Construction of road.
 5. May construct road across any stream, canal and highway; bridges or obstruction prohibited; streets in cities not to be used without consent of corporation, nor along highways, without order of Supreme Court.
 6. Right to cross, intersect, etc., other railroads; proceeding in case two railroads cannot agree; companies shall receive from each other and forward freight.
 7. Conveyance of passengers and property.
 8. Buildings and stations.
 9. Time and manner of transportation, and rates of fare.
 10. May borrow money necessary for completion or operation of road.
- Section 29.** Canal tolls, etc., repealed.
- Section 30.** Conductors and servants to wear badges.
- Section 31.** Annual report.
- Section 32.** Penalty for not making annual report.
- Section 33.** Legislature may alter or reduce rate of freight, fare, etc.
- Section 34.** Mails.
- Section 35.** Passengers refusing to pay fare.
- Section 36.** Notice of times of starting, etc.; preferences forbidden.
- Section 37.** Baggage arrangements; checks to be given; penalty for refusal.
- Section 38.** Passenger trains, how formed; penalty.
- Section 39.** Repealed.
- Section 40.** Sign-boards at road crossings; size of inscription; proviso.
- Section 41.** Punishment of railroad employees for intoxication; punishment in case of death or injury of persons by reason of neglect occasioned thereby.
- Section 42.** Persons injuring railroad property, how punished.
- Section 43.** Penalties; how sued for.
- Section 44.** Fencing; penalty for driving animals on railroads; unlawful to walk upon track.
- Section 45.** Maps to be filed with State Engineer and Surveyor and in county clerks' offices; scale of maps.
- Section 46.** Duty of passengers.
- Section 47.** Road, when to be commenced and finished.
- Section 48.** Legislative power to dissolve.
- Section 49.** What sections of this law applicable to existing corporations.
- Section 50.** General repeal.
- Section 51.** New York and Erie railroad.

Manner of organization; articles to be filed in office of Secretary of State.

SECTION 1. Any number of persons, not less than twenty-five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company; the number of years the same is to continue; the places from and to which the road is to be constructed, or maintained and operated; the length of such road as near as may be, and the name of each county in this State through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of thirteen directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of the next section, such articles of association may be filed in the office of the Secretary of State, who shall indorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title.

See title 3 of chap. 18 of the first part of the Revised Statutes referred to in above section, pages 338, 339 hereof.

Also amended certificates, § 1, chap. 829, Laws of 1872, page 350 hereof.

See chap. 135, Laws of 1870, at page 349 hereof.

Part of line in another State, chap. 19, Laws of 1851, page 351.

As to reorganization, see chap. 430, Laws of 1874, page 375 hereof.

Cable Roads, see chap. 697, Laws of 1866, page 363 hereof.

Elevated Roads, see chap. 606, Laws of 1875, page 379 hereof.

Narrow Gauge Roads, see §§ 5, 6, 7, chap. 560, Laws of 1871, pages 366, 367 hereof.

Street Roads, see chap. 252, Laws of 1884, page 400 hereof.

To operate roads in foreign countries, see chap. 468, Laws of 1881, page 410 hereof.

Conditions of filing.

§ 2. Such articles of association shall not be filed and recorded in the office of the Secretary of State, until at least \$1,000 of stock for every mile of railroad proposed to be made is subscribed thereto, and ten per cent paid thereon in good faith, and in cash, to the directors named in said articles of association; nor until there is indorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association, as aforesaid.

Organization tax must be paid before the same can be filed. Chap. 143, Laws of 1884, page 447 hereof.

Evidence of incorporation.

§ 3. A copy of any articles of association filed and recorded in pursuance with this act, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified

to be a copy by the Secretary of this State, or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Manner of subscribing for additional stock.

§ 4. When such articles of association and affidavit are filed and recorded in the office of the Secretary of State, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company, in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber shall pay to the directors ten per cent on the amount subscribed by him, in money; and no subscription shall be received or taken without such payment.

Directors and their election; their numbers; vacancies; inspectors of election; qualifications for director; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles; not to authorize increase of fare.

§ 5. There shall be a board of thirteen directors of every corporation formed under this act to manage its affairs, and said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors each stockholder shall be entitled to one vote personally or by proxy, on every share held by him thirty days previous to any such election; and vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. The inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right and qualified to vote for directors at the election at which he shall be chosen; and at every election of directors the books and papers of such company shall be exhibited to the meeting if a majority of the stockholders present shall require it. And whenever the purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage executed by such corporation, or execution issued upon any judgment or decree of any court shall acquire title to the same in the manner prescribed by law, such purchaser or purchasers may associate with him and them any number of persons, and make and acknowledge and file articles of association as prescribed by this act. Such purchaser or purchasers and their associates shall thereupon be a corporation with all the powers, privileges and franchises, and be subject to all the provisions of said act. The purchaser or purchasers, or the grantee or grantees of any purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage, or by virtue of any judgment, decree or order of any court having jurisdiction in the premises, may associate with him or them any number of persons and make and acknowledge and file articles of association as prescribed by the first section of this act; such articles shall be entitled to be filed when there is indorsed thereon an affidavit made by at least three of the directors named in said article, that it is intended in good faith to maintain and operate the road mentioned in such articles, and upon the filing thereof, so indorsed, the parties making such articles of association and their associates, shall thereupon be a corporation with all the powers, privileges and franchises, and subject to all the provisions of this act. Nothing herein contained shall be construed to authorize any company

organized under this act to charge any greater rate of fare than they were authorized by law to charge previous to such reorganization. (*Thus amended, Laws of 1854, chap. 282, and Laws 1873, chap. 710.*)

See net to facilitate reorganization of railroads sold under mortgage, page 375 etc., *post*.

Stockholders' meeting. See chap. 510, Laws of 1880, page 432 hereof.

When railroad does not exceed twenty miles in length board of directors may consist of seven stockholders. See chap. 582, Laws of 1864, at page 372 hereof.

Directors may postpone election. See chap. 586, Laws 1875, at page 454 hereof, and chap. 817, Laws of 1881, at page 435 hereof.

Authorizing change in time and place of holding elections. See chap. 498, Laws of 1885, page 435.

Officers, how appointed.

§ 6. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

Subscriptions, how paid and how forfeited.

§ 7. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

Stock declared personal estate; company prohibited from purchasing the same.

§ 8. The stock of every company formed under this act shall be deemed personal estate and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in; and it shall not be lawful for such company to use any of its funds in the purchase of any stock in its own or in any other corporation.

Capital stock; how it may be increased; notice to be published; penalties for violation.

§ 9. In case the capital stock of any company formed under this act, or organized and existing under the laws of this State, is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, and the written approval of the State Engineer and Surveyor, until such time as there shall be appointed a Board of Railroad Commissioners, after that with the written approval of such board, increase its capital stock, from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him at the post-office nearest his usual place of residence, in the post-office at least twenty days prior to such meet-

ing. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid. A copy of such notice shall also be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated by the State Engineer and Surveyor, until such time as a Board of Railroad Commissioners shall be appointed, and after that time by such Board, and in no case, and under no circumstances, shall any railroad company of this State increase its stock except upon the notice and with the approval herein provided. Any officer or director of any railroad company violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months and by fine not exceeding \$1,000. (*Thus amended Laws of 1889, chap. 426.*)

Stock may be reduced. See chap. 264, Laws of 1878, at page 369 hereof.

Preferred stock may be exchanged for common. See chap. 225, Laws 1880, at page 370 hereof.

When stock insufficient for reorganization it may be increased. Chap. 155, Laws 1880, at page 356 hereof.

Liabilities of stockholders.

§ 10. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' services he shall give him notice in writing within twenty days after the performance of such service that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself; and all laws whereby the stockholders, officers and agents of any railroad corporation are made individually liable for the debts or liabilities of such corporation beyond the provisions contained in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the acts amending the same, are hereby repealed. (*Thus amended by Laws of 1854, chap. 282.*)

See chap. 230, Laws of 1845, page 435 hereof.

See § 8, chap. 392, Laws of 1875, at page 439 hereof.

Representative stock.

§ 11. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stock-

holder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator, or intestate, or the ward or person interested in such trust funds would have been if he had been living and competent to act, and held the same stock in his own name.

Payment of laborer's wages; liability of railroad company; notice to be given railroad company and what to state; how verified and served; when actions to be commenced.

§ 12. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing and shall state the month and particular days of the month upon which the labor was performed and remains unpaid for, the price per day, the amount due, with the name of the contractor from whom due, the section of the road performed, and shall be signed by such laborer or his attorney, to which notice an affidavit shall be annexed, made by such laborer or his attorney, to the effect that of his own knowledge the statements contained in such notice are in all respects true. Such notice, so verified, shall be served on an engineer, agent or superintendent employed by said company, having charge of the section of the road on which such labor was performed, personally or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company, under the provisions of this section, unless the same is commenced after ten and within thirty days after notice is given to the company by such laborer as above provided. *(Thus amended by Laws of 1871, chap. 669.)*

As to lien of employees for labor, see Laws of 1875, chap. 392, at pages 437, 438. Also Laws, 1885, chap. 376, page 426.

To extend to bridges and trestles, see Laws of 1870, chap. 529, page 439 hereof.

See also chap. 63, Laws of 1887 referred to on page 439 hereof.

How title to real estate is acquired.

§ 13. In case any company formed under this act is unable to agree for the purchase of any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same, in the manner and by the special proceedings prescribed in this act.

Special estates, how acquired, see chap. 444, Laws of 1887, § 2, at page 373 hereof.

As to streets or avenues in cities or villages, see § 2, chap. 198, Laws of 1876, page 431 hereof.

May purchase and hold real estate in other States, see § 2, chap. 586, Laws of 1875, at page 435 hereof.

See chap. 282, Laws of 1864, page 360 hereof.

By petition to Supreme Court; allegations necessary; copy petition, upon whom served; amount of stock per mile to be subscribed.

§ 14. For the purpose of acquiring such title, the said company may present a petition, praying for the appointment of commissioners of appraisal, to the Supreme Court, at any general or special term thereof held in the district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a description of the real estate which the company seeks to acquire; and it must, in effect, state

may show cause against granting the prayer of the petition and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of three disinterested and competent freeholders, who reside in the county or some adjoining county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company, and to fix the time and place for the first meeting of the commissioners. (*Thus amended by Laws of 1854, chap. 282.*)

Commissioners of appraisal; commissioners to make report to Supreme Court.

§ 16. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet except by the appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties interested, or their agent or attorney. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in such case is closed, they, or a majority of them, all being present, shall, without any unnecessary delay, and before proceeding to the examination of any other claim, ascertain and determine the compensation which ought justly to be made by the company to the owners or persons interested in the real estate appraised by them; and in fixing the amount of such compensation said commissioners shall not make any allowance or deduction on account of any real or supposed benefits which the parties interested may derive from the construction of the proposed railroad or the construction of the proposed improvement connected with such road for which such real estate may be taken. But in case such real estate shall belong to any other railroad company, the commissioners, on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They, or a majority of them, shall also determine what sum ought to be paid to the general or special guardian or committee of an infant, idiot or person of unsound mind, or to an attorney appointed by the court to attend to the interests of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared, for costs, expenses and counsel fees. The said commissioners shall make a report of their proceedings to the Supreme Court, with the minutes of the testimony taken by them, if any, and they shall be entitled to five dollars for services and expenses for every day they are actually engaged in the performance of their duties, to be paid by the company, except where the owners or persons interested in the real estate fail to have awarded them more than the amount of compensation offered them by the company before the appointment of commissioners, then to be paid by the said owners or persons interested, or if not paid by them, to be paid by the company and deducted from the amount awarded. Nothing herein is to affect or apply to any action pending or proceeding begun before the 31st day of December, 1880. (*Thus amended, Laws of 1883, chap. 382.*)

Appraisal not affected by transfer of property, § 6, chap. 282, Laws 1854, at page 361 hereof.

On report being made, company to give notice; report, how confirmed.

§ 17. On such report being made by said commissioners, the company shall give notice to the parties, or their attorneys, to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report; and the court shall thereupon confirm such report and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is

to be made; and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

Further power of court, see § 5, chap. 282, Laws 1854, at page 361 hereof.

Proceedings not affected by transfer of property. § 6, chap. 282, Laws 1854, at page 361.

Order, where to be recorded; its effect when the company neglects to have order recorded; real estate thus acquired for public use; appeals when heard; new appraisal.

§ 18. A certified copy of the order so to be made, as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated, and thereupon and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses and counsel fees, as aforesaid, and as directed by said order, with interest from the date thereof, the company shall be entitled to enter upon, take possession of and use the said land for the purposes of its corporation during the continuance of its corporate existence, by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate and interest in such real estate during the corporate existence of the company, as aforesaid. If the company shall neglect to have such order recorded and to make the payment or deposit, as herein provided, for the period of ten days after the date of such order, any party to such proceedings and interested therein may at his election cause a certified copy of the said order to be recorded as aforesaid, and thereupon the moneys therein directed to be paid, with interest thereon from the date of said order, shall be a debt against the company, and the same shall be a lien on such real estate, and may be enforced and collected by action at law or in equity in the Supreme Court, with costs. Except, nevertheless, the company may abandon such proceedings by filing within thirty days, after notice, in writing, of such recorded order, in the office of such clerk a notice of its determination to do so, and paying the reasonable costs and expenses of such party, to be ascertained and adjusted on motion by the court making such order. But in case of such abandonment, the company shall not renew proceedings to acquire title to such lands without a tender or deposit in court of the amount of said award and the interest thereon. All real estate acquired by any company under and pursuant to the provisions of this act for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the seventeenth section of this act, either party may appeal, by notice in writing to the other, to the Supreme Court from the appraisal and report of the commissioners. Such appeal shall be heard by the Supreme Court at any general or special term thereof, on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners, in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be paid by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank as the court shall direct, and if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid, and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised, and when the same is made by others than the company, it shall not be heard except on a stipulation of the party appealing not to disturb such possession. (*Thus amended, Laws of 1876, chap. 198. See page 431, post.*)

Adverse claims to compensation; how settled.

§ 19. If there are adverse and conflicting claimants to the money or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made.

Protection of unknown parties; amending proceedings.

§ 20. The court shall appoint some competent attorney to appear for, and protect the rights of, any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary; or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper; and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Proceedings when title is defective; additional land, how acquired; water rights; right of way; acquiring by purchase; condemnation; limitation; proviso in case of mortgagee or receiver.

§ 21. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made, and at any stage of such new proceedings the court may authorize the corporation, if in possession, to continue in possession; and if not in possession, to take possession, and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion if the company delays or omits to prosecute the same. And if at any time after the construction of any railroad operated by steam by any company now existing, or that may hereafter be created, such company, or any company owning, operating or leasing such railroad, or any mortgagee or mortgagees in possession of such railroad, or person or persons appointed by any court of competent authority as receiver or receivers of any such railroad, and in the possession of and operating the same, shall require, for the purposes of its incorporation, or for the purpose of running or operating any railroad so owned, leased or possessed as aforesaid, any real estate in addition to what has been already acquired for the purposes of such railroad, or shall require any further right to lands, or the use of lands for switches, turnouts, or for filling any structures of, or for constructing, widening or completing therewith or thereon any embankments, or the road-bed of such railroad, when thereby greater safety or permanency may be secured, and such lands shall be contiguous to such railroad, and reasonably accessible to the place where the same are to be used for such purpose or purposes, or for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary to the operation of such railroad; or any right to take and convey water from any spring, pond, creek or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same; or any right of way required for carrying away or diverting any waters, streams or floods from such railroad, for the purpose of protecting the same, or for the purpose of preventing any embankment, excavation or structure of such railroad from injuring or damaging the property of any person or parties who may be rendered liable to injury by such embankment, excavation or structure, as the same may have been constructed previous to such time, or may then exist; such company, or mortgagee or mortgagees, person or persons in possession as aforesaid, may acquire such additional real estate, or any property or real estate which they now use or occupy, or right of way or other rights hereinbefore specified, by purchasing the same of the person or parties owning the same, or interested therein, or to be affected thereby, and by paying to such parties such damages as they may sustain by reason thereof, if the amount of such compensation or damages can be agreed upon between such company, or mortgagee or mortgagees, person or persons in possession, and such owner or owners, or parties interested in such additional real estate,

and if such company, or mortgagee or mortgagees, person or persons in possession shall, for any cause, be unable to agree for the purchase of such real estate, or right of way, or other rights, or shall be unable to agree upon the sum which shall be paid to such persons or parties in satisfaction of the damages they may sustain, or if the title to any such real estate, or right of way, or other rights already acquired or attempted to be acquired, shall for any cause prove defective or imperfect, then, and in every such case, such company, or mortgagee or mortgagees, person or persons in possession of and operating as aforesaid any such railroad, may proceed to acquire or perfect title to such real estate, or right of way, or other rights, and to ascertain and appraise such damages in the manner and by the proceedings hereinbefore in this act prescribed. Nothing in this act contained shall authorize the taking of any waters that shall at the time of such taking be commonly used for domestic, agricultural or manufacturing purposes to such an extent as to injuriously interfere with such use in the future. And nothing in this act contained shall authorize any railroad corporation to acquire any such gravel lands not contiguous to its right of way, nor shall it be lawful for any railroad company, or any company herein named, to take or acquire, other than by mutual agreement, any right or easement in or to any lands or real estate owned or occupied by any other railroad corporation excepting the right to intersect or cross the tracks and lands owned or held for right of way by such other company; such intersection and crossing to be limited to points where the same can be made without appropriating or affecting any lands owned or held for depots or gravel beds. Provided, that the mortgagee or mortgagees, receiver or receivers in possession of any railroad as aforesaid, before commencing proceedings to ascertain and appraise damages under the provisions of this act, shall present a petition to the court under whose authority they are acting, or to any court of competent authority, for permission to commence such proceedings, which petition shall set forth that such real estate, right of way, or other rights, as aforesaid, described in said petition, are necessary for the operation of said railroad, or for the protection of the property in their possession, and a copy of which petition, with a notice of the time and place the same would be presented to said court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to said court, and no proceedings to ascertain and appraise damages, as aforesaid, shall be taken by said mortgagee or mortgagees, receiver or receivers, as aforesaid, unless they shall be duly authorized by order of said court. (*Thus amended, Laws of 1881, chap. 649.*)

See chap. 272, Laws of 1847, page 387 hereof.

Map of route of railroad to be filed before construction; notice to occupants of lands; objections to route, how made; the application to Supreme Court to be accompanied with map of proposed alterations; court to appoint commissioners to examine, who may affirm or alter route; engineer on commission to concur; determination, map and testimony to be filed; appeals; court may affirm route or adopt alteration; the pay of commissioners.

§ 22. Every company formed under this act, before constructing any part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company in such county, which shall be certified by the president and engineer of the company, or a majority of the directors, and filed in the office of the clerk of the county in which the road is to be made, or in the office of register in counties where there is a register's office. The company shall give written notice to all actual occupants of the land over which the route of the road is so designated and which has not been purchased by, or given to the company, of the time and place such map and profile were filed, and that the route designated thereby passes over the land of such occupant. Any occupant or owner of land over which such route passes, feeling aggrieved by the proposed location, may, within fifteen days after receiving written notice as aforesaid, give ten days' notice

* So in original.

in writing to such company and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the Supreme Court in the judicial district where said lands are situated by petition duly verified for the appointment of commissioners to examine the said route; such petition shall set forth the petitioner's objections to the route designated by the company, shall designate the route to which it is proposed to alter the same, and shall be accompanied by a survey, map and profile of the route as designated by the company, and of the proposed alteration thereof, copies of which petition, map, survey and profile shall be served upon the company and said owners or occupants, with the notice of the application. If the said justice shall consider sufficient cause therefor to exist, he may, after hearing such parties as shall appear, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route, proposed by the company, and the route to which it is proposed to alter the same, and, after hearing the parties, to affirm the route originally designated or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alteration, but no alteration of the route shall be made except by the concurrence of the commissioner who is a practical civil engineer, nor shall an alteration be made which will cause greater damage or injury to lands, or materially greater length of road, than the route designated by the company would cause, nor which shall substantially change the general line adopted by the company. The determination of the commissioners shall, within thirty days after their appointment, be made and certified by them, and the certificate, with the petition, map, survey and profile, and any testimony taken before them, be filed in the office of the register of the county in counties where there is a register, otherwise in that of the county clerk. Within twenty days after the filing of such certificate any party may, by notice in writing to the others, appeal to the Supreme Court from the decision of the commissioners, which appeal shall be heard and decided at the next general term of the court held in any judicial district in which the lands of the petitioners, or any of them, are situated, for which the same can be noticed according to the rules and practice of said court. On the hearing of such appeal the court may affirm the route proposed by the company or may adopt that proposed by the petitioner. Said commissioners shall each be entitled to three dollars per day for their expenses and services, to be paid by the person who applied for their appointment; and if the route of the road as designated by the company is altered by the commissioners, and their decision is affirmed on appeal (if an appeal be taken), the company shall refund to the applicant the amount so paid. (*Thus amended, Laws of 1871, chap. 560.*)

See chap. 19, Laws of 1851, at page 351 hereof; § 13, chap. 282, Laws of 1854, at page 362 hereof; chap. 843, Laws of 1872, page 352 hereof; chap. 560, Laws of 1871, page 365 hereof.

Directors may change route; survey; may acquire land; alteration in city or village; compensation; alteration, how effected, when bonds have been issued.

§ 23. The directors of every company formed under this act may, by a vote of two-thirds of their whole number, at any time, alter or change the route, or any part of the route of their road, or its termini, or locate the said route, or any part thereof, or its termini in a county adjoining any county named in the articles of association, if it shall appear to them that the line can be improved thereby; and they shall make and file in the clerk's office of the proper county a survey, map and certificate of such alteration or change, and shall have the same right and power to acquire title to any lands required for the purposes of the company in such altered or changed route as if the road had been located there in the first instance; and no such alteration shall be made in any city or village after the road shall have been constructed, unless the same is sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village; and in case of any alteration made in the route of any railroad after the company has commenced grading, compensation shall be made to all persons for injury so done to any lands that may have been donated to the company; nothing herein shall be construed to authorize the change of either

terminus to any other county than one adjoining that in which it was previously located, nor the reduction of the amount of capital stock per mile below that now required by law. All the provisions of this act relating to the first location and to acquire title to land shall apply to every such new or altered portion of the route. Nor shall the provisions of this section authorize the alteration of the route or terminus of any railroad in any town, county or municipal corporation which has issued bonds, or any town which may be bonded, but whose bonds have not yet been issued, or subscribed for, and taken any stock or bonds in aid of the construction of such railroad without the consent in writing of, and subscribed by, a majority of the tax payers appearing upon the last assessment-roll of said town, county or municipal corporation. But it shall not be necessary to obtain the consent of such tax payers in order to authorize the extension to a new terminus where such terminus after the change will remain in the same village or city as theretofore. But nothing herein shall be construed to authorize the abandonment of any portion of the track of any railroad as described in its articles of association. (*Thus amended, Laws of 1886, chap. 634.*)

See chap. 560, Laws of 1871, page 385 hereof.

Crossings and intersections; how additional land for, taken highway may be carried over or under.

§ 24. Whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike or plankroad, such highway, turnpike or plankroad may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plankroad on such new line as may be deemed requisite by the directors. Unless the land so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands. The same, when so taken, shall become a part of such intersecting highway, turnpike or plankroad, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plankroad may be held for highway purposes.

State land, how acquired by company.

§ 25. The Commissioners of the Land Office shall have power to grant to any railroad company formed under this act, any land belonging to the people of this State, which may be required for the purposes of their road, on such terms as may be agreed on by them; or such company may acquire title thereto by appraisal, as in the case of lands owned by individuals; and if any land belonging to a county or town is required by any company for the purposes of the road, the county or town officers having the charge of such land may grant such land to such company, for such compensation as may be agreed upon. The land included in the State reservation at Niagara and the the* concourse lands on Coney Island are expressly exempted from the provisions of this section. (*Thus amended, chap 601, Laws of 1886.*)

As to State salt lands, see chap. 345, Laws 1848, page 345.

As to Indian lands, see chap. 316, Laws 1886, page 349.

As to Chautaugus Assembly grounds, see chap. 403, Laws of 1886, page 430.

As to "Forest Lands," see chap. 283, Laws of 1885, page 461.

Title, how acquired, when trustees, guardian or committee are not authorized to sell.

§ 26. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition to authorize and empower such trustee, or the general guardian or committee of such

* So in the original.

infant, idiot, or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot, or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

Weight of iron rails on grades, etc.; how to apply act.

§ 27. No company formed under this act shall lay down or use in the construction of their road any iron rail of less weight than fifty-six pounds to the lineal yard on grades of 110 feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over 110 feet to the mile, except for turnouts, sidings and switches, provided this section shall apply only to roads now being constructed or hereafter to be constructed, when the gauge of said road exceeds four feet or over. (*Thus amended, Laws of 1871, chap. 669.*)

As to Kanona and Prattsburgh R. R., see Laws of 1886, chap. 607.

Additional powers conferred.

§ 28. Every corporation formed under this act shall, in addition to the powers conferred on corporations in the third title of the eighteenth chapter of the first part of the Revised Statutes, have power.

See title 3, chap. 18, part 1 of the Revised Statutes, referred to in foregoing section, pages 338, 339.

May enter upon lands for purpose of survey.

1. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to the responsibility for all damages which shall be done thereto.

May hold voluntary grants of real estate.

2. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grants shall be held and used for the purpose of such grant only.

May purchase, hold and use real estate; reference to Indian lands.

3. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting, the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

See chap. 316, Laws of 1836, entitled "An act authorizing the construction of railroads upon Indian lands," referred to in above section, page 349 hereof.

Construction of road.

4. To lay out its road not exceeding six rods in width, and to construct the same; and for the purpose of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of the road; and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this act for lands taken for the use of the company.

May construct road across any stream, canal and highway; bridges or obstructions prohibited; streets in cities not to be used without consent of corporation, nor along highways without consent.

5. To construct their road across, as provided in section twenty-four of this act, and along or upon any stream of water, water-course, street, highway, plankroad, turnpike, or across any of the canals of this State, which the route of its road shall intersect or touch, but the company shall restore the stream or water-course, street, highway, plankroad and turnpike thus intersected or touched to its former state, or to such state as not unnecessarily to have impaired its usefulness. Every company formed under this act shall be subject to the power vested in the Canal Commissioners by the seventeenth section of chapter 276 of the Session Laws of 1834. Nothing in this act contained shall be construed to authorize the erection of any bridge, or any other obstruction across, in or over any stream or lake navigated by steam or sail boats, at the place where any bridge or other obstructions may be proposed to be placed; nor to authorize the construction of any railroad not already located in, upon or across any streets in any city, without the assent of the corporation of such city; nor to authorize any such railroad company to construct its road upon and along any highway, without the order of the Supreme Court of the judicial district in which said highway is situated, made at a special term of said court, after at least ten days' notice in writing of the intention to make application for said order, shall have been given to the commissioners of highways of the town in which said highway is situated. (*Thus amended, Laws of 1887, chap. 724.*)

See § 17, chap. 276, Laws of 1834, referred to in foregoing section, page 348 hereof.
Damages for crossing turnpike or plankroad, § 4, chap. 19, Laws of 1861, page 351 hereof.

See chap. 300, Laws of 1835, page 430, and chap. 255, Laws of 1855, at page 431 hereof.
See chap. 140, Laws of 1882, page 414 hereof; § 17, chap. 282, Laws 1854, page 368, hereof.
See, also, chap. 478, Laws of 1855, page 349 hereof, and chap. 62, Laws of 1853, page 430 hereof.

As to certain streets in New York city, see chap. 179, Laws of 1887.

Right to cross, intersect, etc., other railroads; proceedings in case two corporations cannot agree; companies shall receive from each other and forward freight.

6. To cross, as provided in section twenty-four of this act, and to intersect, join and unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad company, with the necessary turn-outs, sidings and switches, and other conveniences in furtherance of the objects of its connection. And every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the line or lines, the grade or grades, points and manner of such crossing and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer, to be appointed by the courts, as is provided in this act in respect to acquiring title to real estate; and said commissioners shall have full power to determine whether the crossing or crossings of any railroad before constructed shall be beneath, at or above the existing grade of any such railroad, and upon the route designated on the map of the company seeking the crossing required to be filed by section twenty-two of this act, or otherwise. And all companies whose railroads are or shall hereafter be crossed, intersected or joined as aforesaid shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads with the same dispatch and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property received at and forwarded from the same point for individual and other corporations. (*Thus amended, Laws of 1887, chap. 724.*)

Nothing in this act contained shall apply to any street surface railroad in the city of New York (Laws of 1880, chap. 583, § 2).
See, also, chap. 222, Laws of 1847, page 380 hereof.

Conveyance of passengers and property.

7. To take and convey persons and property on their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive compensation therefor.

Buildings and stations.

8. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freight and business.

Time and manner of transportation, rate of fare, etc.

9. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor; but such compensation for any passenger and his ordinary baggage shall not exceed three cents per mile. The reenactment of this provision shall not be construed as increasing the rate of passenger fare which any railroad of this State is now authorized to charge.

As to extortion, see chap. 185, Laws of 1857, at page 468 hereof.

As to roads not exceeding fifteen miles in length, see chap. 470, Laws of 1881, at page 367 hereof.

As to narrow-gauge roads, see § 6, chap. 560, Laws of 1871, page 366 hereof; also chap. 386, Laws of 1883, page 367.

See, also, chaps. 234, 599, 607, Laws of 1886.

As to payment of five cents additional fare, see chap. 228, Laws of 1857.

As to rate of fare mountain roads, see chap. 536, Laws of 1887, at page 365 hereof.

Provision: a. to extra fare when ticket is not purchased, see chap. 33, Laws of 1889, page 367 hereof.

May borrow money necessary for completion or operation of road; penalty for voting for issue of bonds or increase of capital not authorized.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purpose aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid the right to convert the principal due or owing thereon into stock of said company, at any time not less than two nor more than twelve years from the date of the bond, under such regulations as the directors may see fit to adopt; provided, however, that if the already authorized capital stock of such corporation, at the time such bonds may be issued, shall not be sufficient to meet such conversion when made, the stockholders shall, before such issue and in the manner hereinbefore provided, authorize an increase of capital stock to an extent sufficient to meet the deficiency. Any director or officer of a railroad corporation who shall vote for, sign or certify to any bond secured by mortgage or pledge of the corporate property, without the issue thereof having been sanctioned by a majority in amount of its stockholders, who shall vote in person or by proxy thereon, at a meeting called for that purpose, in the manner provided in section nine of this act, to consider an increase of capital stock, shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment. (*Sub. 7, 8, 9 and 10, thus amended by Laws of 1880, chap. 133; sub. 10, also amended by Laws of 1887, chap. 724.*)

Not necessary to file as chattel mortgage, see chap. 779, Laws of 1863, at page 437 hereof.

Canal tolls; returns, how made; forfeiture, how prosecuted.**§ 29. (Repealed.)**

See chap. 497, Laws of 1861, entitled "An act to abolish tolls on railroads."

Conductors and servants to wear badges.

§ 30. Every conductor, baggagemaster, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

Annual report.

§ 31. Every railroad corporation formed under this act shall make an annual report to the State Engineer and Surveyor of its operations for the year ending with the thirtieth day of September, and of its condition on that day; which report shall be verified by the oath of the president or treasurer and the general manager or acting superintendent of its operations, and shall be filed in the office of the State Engineer and Surveyor by the twentieth day of December in each year, and shall state:

* * * * *

(So much of this section as prescribes the form of report in detail is omitted, another form of report having been prescribed and adopted under the provisions of § 10, chap. 353, Laws of 1882, see page 343.)

It shall be the duty of each corporation to transmit to the State Engineer and Surveyor the following maps, profiles and drawings exhibiting the characteristics of their roads; the map to show the length and direction of each straight line, and the length and radius of each curve; also, the point of crossing of each town and county line, and the length of line in each town and county, accurately determined by measurements to be taken after the completion of the road. The profiles to be on the map, and shall show the grade line and surface of ground in the usual method, also the elevation of grades above tides at each change in the inclination thereof. The maps and profiles to be made on a scale of 500 feet to one-tenth of a foot; vertical scale of profiles to be 100 feet to one-tenth of a foot. For all roads or parts of roads now done or in operation, and for which such maps and profiles have not already been returned, they shall be returned on or before the first day of January next; and for all roads now in progress, or which may hereafter be constructed, the said maps and profiles shall be returned within three months after the same or any portion thereof shall be in use.

* * * * *

The provisions of this section shall apply to all existing railroad corporations; and the report of the said existing railroad corporations, made in pursuance of the provisions of this section, shall be deemed to be a full compliance with any existing law or resolution requiring annual reports to be made by such corporations, or either of them. *(Thus amended, Laws of 1880, chap. 575.)*

As to power of Board of Railroad Commissioners to prescribe form of report, see chap. 353, Laws of 1882, § 10, page 343 hereof.

See, also, chap. 844, Laws of 1860, page 372 hereof; as to Street Railroads, see chap. 906, Laws of 1867, page 412 hereof.

Penalty for not making report.

§ 32. Any railroad corporation which shall neglect to make the report, as is provide* in the preceding section, shall be liable to a penalty of two hundred and fifty dollars, and an additional penalty of twenty-five dollars for each day after the first day of December, on which they shall neglect to file said report, as provided in said section, to be sued for in the name

* So in the original.

of the people of the State of New York, for their use. (*Thus amended, Laws 1867, chap. 906*).

See however, in this connection, the preceding section of this act; also § 4, chap. 906, Laws of 1867, page 413 hereof.

Legislature may alter or reduce rate of freight, fare, etc.

§ 33. The Legislature may, when any such railroad shall be opened for use, from time to time alter or reduce the rate of freight, fare or other profits upon such roads; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the "Board of Railroad Commissioners," they shall ascertain the net income derived by the company from all sources for the year then last past shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended. (*Thus amended, Laws of 1883, chap. 381*).

Mails.

§ 34. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the Governor of this State to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses, and wear and tear thereof, and for the service, to be fixed as aforesaid.

: See § 17, chap. 215, Laws of 1846, at page 356 hereof.

Passengers refusing to pay fare.

§ 35. If any passenger shall refuse to pay his fare it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

Notice of times of starting, etc.; preferences forbidden.

§ 36. Every such corporation shall start and run their cars for the transportation of passengers and property at regular times to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting, and at the junctions of other railroads and at the usual stopping places established for receiving and discharging way passengers and freights for that train, and shall take, transport and discharge such passengers and property at and from and to such places on the due payment of the fare or freight legally authorized therefor. No preference for the transaction of business shall be granted by said railroad corporation to any one of two or more companies or associations competing in the business of transporting property for themselves or for others, upon the railroad owned or operated by such corporation, either upon the cars or in the depots or buildings, or upon the grounds of such corporation; and whenever the railroad of such corporation at or near the same place connects with or is intersected by any other railroad, such corporation shall fairly and impartially grant and afford to each of such competing companies or associations equal terms of accommodation, privileges and facilities in the transportation of property and freight to and upon such connecting or

intersecting railroad, and shall also grant and afford to each of such competing companies or associations, and to the officers, agents and employees thereof equal facilities in the interchange and use of express, freight and other cars, so far as may be necessary to accommodate the business of each of such competing companies or associations, and every railroad corporation shall be liable to the party aggrieved in an action for damages for any neglect or refusal in the premises. The provisions of this section shall apply to all existing railroad corporations. (*Thus amended, Laws of 1867, chap. 49.*)

See § 9, chap. 270, Laws of 1847, at page 356, as to liability of connecting railroads for freight and as common carriers.

Baggage arrangement ; checks to be given ; penalty for refusal.

§ 37. A check shall be affixed to every parcel of baggage, when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop or fixture so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; and, further, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train, and on producing said check, if his baggage shall not be delivered to him, he may himself be a witness in any suit brought by him, to prove the contents and value of said baggage.

As to checks for baggage, weight of baggage, etc., see chap. 270, Laws of 1847, § 8, page 356 hereof, chap. 272, Laws of 1847, § 6, at page 357 hereof, and chap. 300, Laws of 1857, at pages 457-458, also chap. 573, Laws of 1868, page 358 hereof.

§ 38. (Repealed.) (*Chap. 593, Laws of 1886, see § 422 Penal Code, p. 487.*)

§ 39. (Repealed.) (*Sec. 18, chap. 282, Laws of 1854, p. 360.*)

Sign-boards at road crossings ; size of inscription ; proviso.

§ 40. Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each traveled public road or street where the same is crossed by the railroad, on the same level. Said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of such boards shall be painted in capital letters, of at least the size of nine inches each, the words, "Railroad crossing, look out for the cars." But this section shall not apply to streets in cities or villages, unless the corporation shall be required to put up such boards by the officers having charge of such streets.

As to ringing bell and blowing whistle at street or highway crossing, see § 7, chap. 282, Laws of 1854, at page 361 hereof.

§ 41. (Repealed.) (*Chap. 593, Laws of 1886, see § 420 Penal Code, p. 487.*)

As to age of employees, see chap. 246, Laws of 1865, page 470.

As to uniform of employees, see § 1, chap. 453, Laws of 1867, at page 469 hereof.

As to qualification of engineers, see Laws of 1870, chap. 636, at page 470 hereof.

See Penal Code provisions as to employees, §§ 362, 199, 418, 419, 420, 421, 422, at page 486 hereof.

§ 42. (Repealed.) (*Chap. 593, Laws of 1886; see §§ 635, 638, Penal Code, pp. 484, 485.*)

As to trespass upon or injury to railroad property, see Penal Code, §§ 487, subd. 4, 484, 486, 505, 645, 635, 638, at pages 483, 484 and 485 hereof; also chap. 261, Laws of 1877, at page 473, hereof; also chap. 160, Laws of 1838, page 472.

Penalties ; how sued for.

§ 43. All penalties imposed by this act may be sued for in the name of the people of the State of New York; and if such penalty be for a sum not exceeding one hundred dollars, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

As to suits for penalties, see Code of Criminal Procedure, §§ 675 to 682; pp. 480, 481 hereof.

Fencing; cattle-guards; penalty for driving animals on railroads; unlawful to walk upon track.

§ 44. Every corporation formed under this act shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with openings or gates or bars therein, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad; and also construct and maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle-guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses, or other animals thereon; and after such fences and guards shall be duly made and maintained, the corporation shall not be liable for any such damages, unless negligently or willfully done; and if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards, other than at farm crossings, without the consent of the corporation, he shall, for every such offense, forfeit a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved. It shall not be lawful for any person, other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except where the same shall be laid along public roads or streets.

See § 8, chap. 262, Laws of 1864, at page 361. As to owner fencing, see § 9, page 362.

Maps to be filed with State Engineer and Surveyor and in county clerks' offices; scale of maps.

§ 45. Every corporation shall, within a reasonable time after their road shall be constructed, cause to be made:

A map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the office of the State Engineer and Surveyor; and also like maps of the parts thereof located in different counties, and file the same in the offices for recording deeds in the county in which such parts of said road shall be. Every such map shall be drawn on a scale, and on paper, to be designated by the State Engineer and Surveyor, and certified and signed by the president or engineer of such corporation.

Duty of passengers.

§ 46. In case any passenger on any railroad shall be injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury; provided such company at the time furnished room inside its passenger cars sufficient for the proper accommodation of the passengers.

Road, when to be commenced and finished.

§ 47. If any corporation formed under this act shall not, within five years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in seven years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease.

This extension of time shall apply to all corporations whose articles of association have been filed within five years before the passage of this act. (Thus amended, Laws of 1864, chap. 582.)

As to extension of time, see Laws of 1867, chap. 775, at page 368 hereof; also chap. 588, Laws 1875, at page 368 hereof; also chap. 405 Laws of 1872 at page 368 hereof.

Legislative power to dissolve.

§ 48. The Legislature may at any time annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

See Const. State of N. Y., art. 8, § 1, at page 348 hereof.

What sections of this law applicable to existing corporations.

§ 49. All existing railroad corporations within this State shall respectively have and possess all the powers and privileges contained in this act; and they shall be subject to all the duties, liabilities and provisions not inconsistent with the provisions of their charter, contained in sections 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28 (except subdivision 9), 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, of this act.

General repea.

§ 50. The act entitled "An act to authorize the formation of railroad corporations," passed March 26, 1848, and the acts amending the same, are hereby repealed; but all railroad companies formed under said act are hereby continued in existence in the same manner as if said acts were not repealed; and such companies shall be subject to all the provisions, and shall have the same powers, rights and privileges, and be subject to the same duties as if they had been incorporated under this act; and the time limited by said act for the expenditure of ten per cent of their capital stock is hereby extended two years from the passage of this act; and the time limited in said section of said law for their completion is hereby extended to five years from the passage of this act; and also the time for completing any railroad organized previous to March 27, 1848, whose road was under contract prior to February 1, 1850, to be completed within the time prescribed by its charter, is hereby extended for one year.

New York and Erie railroad.

§ 51. Nothing in this act contained shall authorize or permit the New York and Erie Railroad Company to abandon the use of their road in the county of Rockland, east of Suffern's depot.

REVISED STATUTES.

TITLE 3, CHAPTER 18, PART 1, REFERRED TO IN SECTION 1 OF THE GENERAL RAILROAD ACT.

General powers.

SECTION 1. Every corporation, as such, has power:

1. To have succession by its corporate name for the period limited in its charter, and when no period is limited, perpetually;
2. To sue and be sued, complain and defend, in any court of law or equity;
3. To make and use a common seal, and alter the same at pleasure;
4. To hold, purchase and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter.

[Any corporation which shall have sold and conveyed any part of its real estate may, notwithstanding any restriction in its charter, purchase, take and hold, from time to time, any lands adjacent to those already held by it; provided the Supreme Court shall authorize such purchase, taking and holding upon the application of such corporation, and on being satisfied that the value of all lands proposed to be so purchased shall not exceed that of lands sold and conveyed by the said corporation within the three years next preceding such application.] (§ 1, chap. 290, *Laws of 1882.*)

5. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.

6. To make by-laws not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

In what corporations to vest.

§ 2. The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created, although they may not be specified in its charter or in the act under which it shall be incorporated.

What other powers to be possessed.

§ 3. In addition to the powers enumerated in the first section of this title, and to those expressly given in its charter, or in the act under which it is or shall be incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given.

Exercise of banking powers prohibited.

§ 4. No corporation created, or to be created, and not expressly incorporated for banking purposes, shall, by any implication or construction, be deemed to possess the power of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold and silver bullion, or foreign coins, of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt, upon loan, or for circulation as money.

Liability of stockholders.

§ 5. Where the whole capital of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy the claims of its creditors, each stockholder shall be bound to pay, on each share held by him, the sum necessary to complete the amount of such share, as fixed by the charter of the company, or of such proportion of that sum as shall be required to satisfy the debts of the company.

Quorum.

§ 6. When the corporate powers of any corporation are directed by its charter to be exercised by any particular body, or number of persons a

majority of such body or persons, if it be not otherwise provided in the charter, shall be a sufficient number to form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

Forfeiture for non-user; not applicable to railroads incorporated under the general act.

§ 7. If any corporation hereafter created by the Legislature shall not organize and commence the transaction of its business within one year from the date of its incorporation, its corporate powers shall cease.

The seventh section not to apply in certain cases.

[The seventh section of title 3, chapter 18, of the first part of the Revised Statutes shall not be so construed as to apply to any act for incorporating a railroad company which has, or shall have in its own provisions the terms and times in which it shall be forfeited for non-user.] (§ 1, chap. 155, Laws of 1846.)

See General Act, § 1.

Reservation of power to repeal.

§ 8. The charter of every corporation that shall hereafter be granted by the Legislature shall be subject to alteration, suspension and repeal, in the discretion of the Legislature.

Trustees in case of dissolution.

§ 9. Upon the dissolution of any corporation created or to be created, and unless other persons shall be appointed by the Legislature or by some court of competent authority, the directors or managers of the affairs of such corporation at the time of its dissolution, by whatever name they may be known in law, shall be the trustees of the creditors and stockholders of the corporation dissolved, and shall have full power to settle the affairs of the corporation, collect and pay the outstanding debts, and divide among the stockholders the moneys and other property that shall remain, after the payment of debts and necessary expenses.

Powers of trustees.

§ 10. The persons so constituted trustees shall have authority to sue for and recover the debts and property of the dissolved corporation, by the name of the trustees of such corporation, describing it by its corporate name, and shall be jointly and severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall come into their hands.

ACT CREATING BOARD OF RAILROAD COMMISSIONERS.

CHAP. 353, LAWS OF 1882.

AN ACT to create a Board of Railroad Commissioners, and to define and regulate its powers and duties.

Board of Railroad Commissioners to be appointed; how selected; vacancies, how filled; Governor may suspend Commissioner; secretary, his duties; marshal; Commissioners and secretary to take constitutional oath; who prohibited from holding office of Commissioner or secretary.

SECTION 1. There shall be in and for the State of New York a Board of Railroad Commissioners, to consist of three competent persons, who shall be appointed by the Governor, by and with the advice and consent of the Senate, one of whom shall hold office three years, one four years, and one five years. Such appointments shall be made within ten days after the 3d day of January, 1883. One of said persons shall be selected from the party which shall cast at the next general election the greatest number of votes for Governor of the State, and one of said persons shall be selected from the party which shall cast at the next general election the next greatest number of votes for Governor of the State, one of whom shall be experienced in railroad business, and one of said persons shall be selected upon the recommendation of the presidents and executive committees, or a majority of such, of the Chamber of Commerce of the State of New York, the New York Board of Trade and Transportation, and the National Anti-Monopoly League of New York, as said organization now exists, or any two of such organizations so represented, in case of disagreement. And after such appointment first made, the Governor, by and with the advice and consent of the Senate, shall in each year that a vacancy occurs fill the same by appointment for the term of five years. If any vacancy happens by resignation or otherwise, he shall in the same manner appoint a Commissioner for the residue of the term. Any Commissioner may be suspended from office by the Governor upon written charges preferred. The Governor shall report the fact of such suspension and the reasons therefor at the beginning of the next ensuing session of the Senate, and if a majority of such Senate shall approve the action of the Governor, such Commissioner shall be removed from office and his term of office shall expire. If the Senate shall not be in session at the time any such vacancy shall occur or exist, the Governor shall appoint a Commissioner to fill the vacancy, subject to approval of the Senate when convened. Said Board shall have a clerk or secretary, who shall be appointed by the Board to serve during their pleasure, and whose duty shall be to keep a full and faithful record of the proceedings of said Board, and file and preserve at the general office of said Board all books, maps, documents and papers intrusted to his care, and prepare for service such papers and notices as may be required of him by the Commissioners, and perform such other duties as the Board may prescribe; and he shall have power, under direction of the Board, to issue subpoenas for witnesses, and to administer oaths in all cases pertaining to the duties of his office. Such Board shall also appoint a marshal, whose duty it shall be to attend at the offices, and at the meetings and examinations of said Board as required, and to serve notices and other papers, and perform such other duties as the Board shall prescribe. Said Commissioners and clerk shall take and subscribe the constitutional oath of office, and be sworn to the due and faithful performance of the duties of their

respective offices, before entering upon the discharge of the same; and no person in the employ of, or holding any official relation to any railroad corporation, or owning stock or bonds in any railroad corporation, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any railroad corporation, shall hold either of said offices, nor shall either of said Commissioners be engaged in any other business vocations.

The provisions of the foregoing section relative to clerk or secretary amended by chap. 441, Laws of 1884, § 1. See page 346 hereof.

Principal office; may establish branch offices in cities of New York and Buffalo; meetings; supplies for offices.

§ 2. The principal office of said Board shall be at the city of Albany, in rooms to be designated by the Capitol Commissioners, but the said Board may also establish a branch office at the city of New York, and one at the city of Buffalo, if in their judgment such branch offices, or either of them, will be necessary for the proper and convenient transaction of the business and duties of said Board; and said Board, or a quorum thereof, shall meet at least once a month during the year at their office in the city of Albany, and a record of their proceedings shall be published in their annual report to the Legislature. Said offices shall be supplied with necessary postage, stationery, office furniture and appliances, the expense thereof to be paid as other expenses authorized by this act.

Quorum; Board may order and direct examinations and investigations to be taken by and before one Commissioner; proceedings and decisions not final and conclusive, however, until confirmed by the Board.

§ 3. Any two of said Commissioners shall constitute a quorum for the transaction of any of the business or duties of said Board, and may hold meetings thereof at any time or place within the State. All examinations or investigations hereinafter provided for may be held and taken by and before any one of said Commissioners, if so ordered and directed by the Board; but the proceedings and decisions of said single Commissioner therein shall not be deemed final and conclusive until approved and confirmed by the Board.

Powers and duties of Board; notice to be given of investigations, examination of books, etc.; fees of witnesses; subpoenas; when to examine books, etc.; to what companies act applies.

§ 4. Said Board of Commissioners shall have power to administer oaths in all matters relating to their duties, and shall have the general supervision of all railroads and railways (so far as necessary to enable them to perform the duties and exercise the power imposed and conferred by law) and shall examine the same, and keep themselves informed as to their condition, and the manner in which they are operated, with reference to the security and accommodation of the public and the compliance of the several corporations with the provisions of their charters and the laws of the State; it shall also be the duty of said Board of Railroad Commissioners to investigate the causes of any accident on a railroad, resulting in loss of life or injury to person or persons, which, in their judgment, shall require investigation, and the result of such investigation shall also be reported upon in the annual report of the Commissioners to the Legislature; and it is hereby made the duty of the general superintendent or manager of each railroad in this State to inform the said board of any such accident immediately after its occurrence. Before proceeding to make any such examination or investigation of the condition or operation of any railroad in this State, or any accident thereon, in accordance with this act, said Board shall give reasonable notice to the corporation, person or persons conducting and managing the same of the time and place of entering upon said examination. And such Board of Railroad Commissioners shall have power, for the purposes provided for in this act, to examine the books and affairs of any railroad company or corporation, or to compel the production of copies of books and papers, subpoena witnesses, administer oaths to them, and compel their attendance

and examination, as though such subpoena had issued from a court of record of this State. The fees of witnesses before such Railroad Commissioners shall be \$2 for each day's attendance, and five cents per mile traveled by the nearest practicable route in going to and returning from the place where the attendance of the witness is required. All subpoenas shall be signed by the secretary of the Commission, and may be served by any person of full age authorized by the Commission to serve the same. Fees of witnesses shall be audited and paid by the Comptroller on the certificate of the secretary of the Commission, which shall state the number of days which each witness attended, and the number of miles traveled. Whenever any such examination of the affairs of any railroad corporation shall take place in which such Board will require the examination of the books and affairs of such company or corporation, or the subpoenaing of witnesses, who are in the employ of such company or corporation, the Board or a Commissioner thereof shall sit for such purpose in the city or town of this State where the principal business office of such railway corporation may be situated. The Board of Commissioners, however, shall have the power to require copies of books and papers, or abstracts thereof, as provided for in this section, to be sent to them to any part of this State. And the provisions of this act shall apply to all railroads and railways and the corporations, receivers, trustees, directors, or others owning, or operating the same; and also to all sleeping and drawing-room car companies or corporations, and to all other associations, partnerships, companies or corporations engaged in transporting passengers or freight upon any railway as lessees or otherwise.

As to subpoenas, see § 1, chap. 441, Laws of 1884, at page 346 hereof.

When violation of law by corporations; powers of Commissioners.

§ 5. Whenever, in the judgment of the Board of Railroad Commissioners, it shall appear that any such corporation has violated any constitutional provision or law, or neglects in any respect or particular to comply with the terms of the act by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not by its act of incorporation granted, or refuses to comply with the provisions of any of the laws of the State, or with any recommendation of said Board of Commissioners, they shall give notice thereof, in writing, to such corporation; and if the violation or neglect is continued after such notice, the Board may forthwith present the fact to the Attorney-General, who shall take such proceedings thereon as may be necessary for the protection of public interests.

Where repairs are necessary; change in rates of fare for transportation of freight or passengers; change in the mode of operating the road, etc.; Board to give notice to corporation, in writing, when corporation neglects or refuses to comply; Board to present facts to Attorney-General, also to report same to Legislature.

§ 6. Whenever, in the judgment of the said Board of Railroad Commissioners, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad within this State, or that any addition to the rolling stock, or any addition to or change of the stations or station-houses, or that additional terminal facilities shall be afforded, or that any change in the rates of fare for transporting freight or passengers, or that any change in the mode of operating the road and conducting its business is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the said Board shall give notice and information, in writing, to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereon, and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information and hearing, and shall not satisfy said Board that no action is required to be taken by it, the said Board shall present the facts in the case to the Attorney-General for his consideration and action; and shall also report the same facts in a special report or in the annual report of said Board to the Legislature.

Corporations to furnish necessary information; copies of contract, etc., publicity; penalty.

§ 7. Every railroad corporation shall at all times, on request, furnish the said Board of Railroad Commissioners any necessary information required by them concerning the condition, management and operation of its railroad, and particularly with the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and such railroad corporation shall also at all times on request furnish to such Board of Railroad Commissioners copies of all contracts and agreements, leases or other engagements by such corporation entered into with any person or persons, corporation or corporations. But said Commissioners shall not be required to give publicity to such information, contracts, agreements, leases or other engagements, if in their judgment the public interests do not require it or the welfare and prosperity of railway corporations of this State might be thereby otherwise injuriously affected. Every officer, agent or employee of any railroad company who shall, upon due notice, neglect or refuse to make or furnish any statement or report required by said Commissioners in their judgment necessary to the purpose of this act, or who shall willfully hinder, delay or obstruct the said Commissioners in the discharge of the duties imposed by this act, shall be guilty of a misdemeanor.

Not to affect legal rights.

§ 8. No personal examination, request or advice of the said Board of Railroad Commissioners, nor any investigation or report made by the same, shall have the effect to impair, in any manner or degree, the legal rights, duties or obligations of any railroad corporation or its legal liability for the consequence of its acts, or of the neglect or mismanagement of any of its agents or servants.

Annual report to Legislature; duty of Board; duty of Board to recommend and draft bills, etc.; change of railway laws.

§ 9. The said Board of Railroad Commissioners shall make an annual report to the Legislature of their doings, including such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State, and such suggestions as to the general railroad policy of the State, or the amendment of its laws, or as to the condition, affairs or conduct of any of the railroad corporations as may seem to them appropriate. And the said Board of Railway Commissioners shall be charged with the duty to recommend and draft for the Legislature such bills as will, in their judgment, protect the people's interest in and upon the railways of this State. And it shall likewise be the duty of such Commissioners to take testimony upon, and have hearing for and against, any proposed change of the law relating to any railway or railways, or proposed change of the general law in relation to railways, if requested to do so by the Legislature, or by the committee on railroads of the Senate or Assembly, or by the Governor, or by any railroad company, or by any incorporated organization representing agricultural or commercial interests in the State, and such Commissioners shall thereupon report their conclusions, in writing, to the Legislature, or to such legislative committee, Governor, company, or such organization from whom the request to act emanated.

Board has power to prescribe form of report; notice, when blank form of returns to be furnished; tables and abstracts, what to be presented to Legislature in annual report; return to be preserved.

§ 10. The said Board of Railroad Commissioners shall have power to prescribe the form of the report required to be made by railroad corporations, under section 31 of chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and may from time to time make such changes and additions to such form, giving to the corporations six months' notice, before the expiration of any fiscal year, of any such changes and additions which would require any alteration in the method or form of keeping their accounts, and the report by said "Act to authorize the formation of rail-

road corporations, and to regulate the same," of 1850, required to be made to the State Engineer and Surveyor, shall hereafter be made to such Board of Railroad Commissioners. Until such Board of Railroad Commissioners, however, shall change or alter the form of the report, the form now prescribed by law shall be followed by the said railroad corporations. And the said Board of Railroad Commissioners shall, on or before the fifteenth day of September in each year, furnish a blank form of such returns. When the return received from any corporation is defective, or believed to be erroneous, the Board shall notify the corporation to amend the same within thirty days. The said Board shall prepare such tables and abstracts of all the returns as they shall deem expedient, and which shall be contained in their annual report, and their annual report shall be transmitted to the Legislature on or before the second Monday in January, each year, and which annual report shall among other things, contain an abstract of the proceedings of the Board during the preceding year, and also drafts of bills which have been submitted by the Board to the Legislature and the reason therefor, and such suggestions as to the workings of the laws of the State on the subject of railways and transportation, as to the said Board may seem proper and expedient. The originals of the returns as amended, subscribed and sworn to as now provided by law, or as hereafter to be provided by the said Board of Railway Commissioners, shall be preserved in the office of the Board.

Commissioners' edition of annual report; how distributed

§ 11. There shall be printed, in addition to the regular number prescribed by law, as a public document of the State, 500 copies, to be bound in cloth, of the annual report of Railroad Commissioners, with the returns of the corporations for the use of the said commissioners, and to be distributed by them to such railroad corporations and other bodies of persons interested therein, in the discretion of the said Commissioners.

Salaries of clerical force; temporary employment of engineers, accountants and experts; passes; State to procure necessary books, etc.; reimbursement of Commissioners for expenses and disbursements, also for clerks and marshal; salaries and expenses to be audited by Comptroller; appropriation.

§ 12. The annual salary of each Commissioner shall be \$8,000, payable quarterly from the treasury of the State. The annual salary of the chief clerk or secretary shall be \$3,000, and of the marshal, \$1,500, payable from the treasury of the State. The said Board shall also have power to employ such additional clerical force, not exceeding in number three persons, however, at salaries not to exceed in the aggregate the sum of \$3,000 per annum, as they may find necessary for the purpose of preparing the reports required by this act, and such other clerical duties as may be required of them by said Board. And such Board of Railroad Commissioners may have the power to employ engineers, accountants and other experts, whose services they may deem to be of temporary importance in the conducting of any investigation herein provided. In the discharge of the duties of their office they shall be transported over the several railroads in the State free of charge upon passes signed by the Secretary of State; they may employ and take with them, experts or other agents whose services they may deem to be temporarily of importance, and who shall also be transported, while on such duty, free of charge upon passes signed by the Secretary of State; and they shall have procured for them by the State the necessary books, maps and statistics incidentally necessary for the discharge of the duties of their office; and they shall also have reimbursed to them quarterly the expenses and disbursements they may have incurred in traveling, and for the necessary travel expenses and disbursements of their clerks, marshal and of experts; which expenses, however, shall not exceed in the aggregate \$500 a month; and a statement of such expenditures in detail shall accompany the annual report. The salaries and expenses authorized by this act shall be audited and allowed by the Comptroller, and paid in the first place by the State Treasurer upon the order of the Comptroller, out of any unappropriated funds from time to time remaining in the treasury. The sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated to carry out the provisions of this act. (*Thus amended by chap. 388, Laws of 1883.*)

Limit of total annual expense to be borne by railroads; apportioned by Comptroller and State Assessors.

§ 13. The annual total expense of the said Board of Railroad Commissioners, including salaries for Commissioners' clerks and marshal, and additional clerical force, printing of additional copies of report, as provided by section eleven of this act, and all other expenses incident to said Board, excepting only rent of office, shall not exceed the sum of \$50,000, and such expenses shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the Comptroller and State Assessors, who, on or before the first day of July in each year, shall assess upon each of said corporations its just proportion of said expenses, one-half in proportion to its net income for the year next preceding that in which the assessment is made, and one-half in proportion to the length of main track or tracks on road, and such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations.

See chap. 441, Laws of 1884, at page 346 hereof.

Right of Commissioners to enter cars, offices and depots; not to solicit appointments, etc.; penalty for violation; not to accept passes or gratuities from railroad companies; applicable to employees; revealing information a misdemeanor.

§ 14. Said Railroad Commissioners, and either of them, shall have the right in their or his official capacity to enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad company within this State, in the performance of official duties; but said Railroad Commissioners shall not, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person or persons to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such Commissioners, or either of them, nor to any clerk or employee of said Commissioners whatever; neither shall said Commissioners, nor their secretary, clerks, agents, employees or experts accept, receive or request any pass from any railroad in this State for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation, and the request or acceptance by them, or either of them, of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the said Commissioner or Commissioners, secretary, clerk or clerks, agent or agents, employee or employees, expert or experts, who shall be guilty thereof; and any violation of this section, or of any part thereof, shall also be deemed a misdemeanor and punishable as such, and any Commissioner, secretary, clerk, agent, employee or expert who shall secretly reveal any information gained by him from one railroad company to any other railroad company or person shall be guilty of a misdemeanor. (*Thus amended by chap. 388, Laws of 1883.*)

Repeal.

§ 15. All acts and parts of acts inconsistent with the foregoing provisions are hereby repealed.

CHAP. 421, LAWS OF 1884.

AN ACT in relation to certified copies of documents in the office of the Board of Railroad Commissioners, the fees to be charged therefor, and providing for a seal for the use of the Board.

Certified copies evidence.

SECTION 1. Copies of all official documents, filed or deposited, according to law, in the office of the Board of Railroad Commissioners, when certified by a member of the Board or by its Secretary, in the form of and pursuant to law, shall, in all cases, be evidence equally and in like manner as the originals.

The Board of Railroad Commissioners shall have an official seal, to be prepared by Secretary of State, to be used on all certified copies.

§ 2. The Board of Railroad Commissioners shall have an official seal to be prepared by the Secretary of State in accordance with the provisions of "An act to establish the original arms of the State of New York and to provide for the use thereof on the public seals," being chapter one hundred and ninety of the laws of eighteen hundred and eighty-two, and such seal shall thereafter be used upon all certified documents issued from said Board.

Fees.

§ 3. The Board of Railroad Commissioners shall hereafter charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by said Board, ten cents for each folio of one hundred words; for certified copies of official documents filed in said office, fifteen cents for each folio of one hundred words, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by railroads to the Board, fifty cents; for each certified copy of the annual report of the Board, one dollar and fifty cents.

Id.

§ 4. For certified copies of evidence and proceedings before the Board, fifteen cents for each folio of one hundred words.

Id.

§ 5. No fees shall be charged or collected for copies of papers, records or official documents furnished to public officers for use in their official capacity, or for annual reports in the ordinary course of distribution.

Fees to be paid quarterly, accompanied with a detailed statement, into the State treasury.

§ 6. All fees charged and collected by the Board belong to the people of this State, and shall be paid quarterly, accompanied with a detailed statement thereof, into the treasury of the State, to the credit of the general fund.

Repeal.

§ 7. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAP. 441, LAWS OF 1884.

AN ACT to define the duties of certain officers of the Board of Railroad Commissioners, to regulate the power of issuing subpoenas, and to limit the number of clerks thereof.

Defining powers and duties of chief clerk or secretary; power to issue subpoena now vested in chairman of Board of Railroad Commissioners or two Commissioners; proceeding where subpoena is disobeyed; may administer oaths; salary, etc.; to take constitutional oath; when ineligible to hold such position.

SECTION 1. The chief clerk or secretary of the Board of Railroad Commissioners shall keep a full and faithful record of the proceedings of said Board; he shall be the custodian of the records thereof, and file and preserve at the general office of said Board all books, maps, documents and papers intrusted to his care, and shall be responsible to said Board for the same. Under the direction of said Board he shall be its executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of communication of its decisions, recommendations, orders and requests; and shall perform such other business as the Board may prescribe. The power to issue subpoenas, heretofore vested in the chief clerk or secretary of said Board, shall hereafter be vested in the chairman of the Board or by two of the members thereof, and if a person who is duly subpoenaed does not obey such subpoena without reasonable cause, or if, when attending or brought before

said Board, or a member thereof authorized to examine him, he shall refuse, without reasonable cause, to be examined; or to answer a legal and pertinent question; or to produce a book or paper which he is directed to bring by terms of the subpoena; or to subscribe his deposition after it has been correctly reduced to writing, the Board may take such proceedings as are provided by the Code of Civil Procedure. The secretary shall have power to administer oaths in all cases pertaining to the duties of his office. He shall receive as salary \$4,000 per annum, payable monthly, and shall hold his office at the pleasure of the Board. He shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office, and no person in the employ of, or holding any official relation to any railroad corporation, or owning stock or bonds in any railroad corporation, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any railroad corporation, shall hold such office. (*Thus amended by chap. 509, Laws of 1886.*)

Accountant, appointment of; salary; duties; to take constitutional oath.

§ 2. The Board of Railroad Commissioners may appoint an accountant at a salary not exceeding \$3,000 per annum, payable monthly, who shall be thoroughly skilled in railroad accounting, whose duty it shall be to make, under the directions of the said Board, examinations of the books and accounts of railroad companies and other corporations, under the provisions of chapter 353, Laws of 1882. Under the direction of the Board he shall supervise the quarterly and annual reports made by the railroad companies to the Board, collect and compile railroad statistics and perform such other duties as the Board may prescribe. Said accountant shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office. He shall hold his office at the pleasure of the Board.

Inspector; appointment of; salary; duties; to take constitutional oath.

§ 3. The Board of Railroad Commissioners may appoint an inspector, at a salary not exceeding \$3,000 per annum, payable monthly, who shall be a civil engineer and one skilled in railroad affairs, whose duty it shall be to make such inspections of railroads and other matters relating thereto, as directed by the Board, and report to it. Said inspector shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office. He shall hold his office at the pleasure of the Board.

Clerical force.

§ 4. The Board of Railroad Commissioners may appoint such additional clerical force as may be necessary for the transaction of business of the Board, provided, however, that the number of such clerks shall not exceed six, and the aggregate salaries thereof shall not exceed \$6,000.

Comptroller to audit and allow salaries provided for in sections 1, 2, 3 and 4.

§ 5. The sums of money provided to be paid as salaries in sections 1, 2, 3 and 4 of this act shall be audited and allowed by the Comptroller and paid in the first place by the State Treasurer, upon the warrant of the Comptroller, out of any unappropriated funds remaining in the treasury, and the Comptroller shall reimburse the Treasurer in the sums advanced from the annual appropriation made in conformity with the provisions of chapter 353, Laws of 1882, for the maintenance of the Board of Railroad Commissioners.

Repeal.

§ 6. All acts or parts of acts inconsistent with this act are hereby repealed.

LAWS RELATING GENERALLY TO RAILROADS.

Article VIII, section 1 of the Constitution of the State of New York.

Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation can not be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time.

CHAP. 346, LAWS OF 1848.

AN ACT to dispose of certain vacant and unoccupied lands belonging to the Onondaga Salt Springs reservation, and for other purposes.

* * * * *

Provisions respecting railroad companies.

§ 7. Whenever it shall be necessary for any railroad company to occupy any of the salt lands belonging to this State, for the use of their road, the same shall be appraised in the manner provided for in the second section of this act, and when they shall pay into the treasury of this State the appraised value, they shall become possessed of the same, to the same extent as by their charter they are authorized to become possessed of lands belonging to individuals.

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(See, also, chap. 148, Laws of 1881).

CHAP. 276, LAWS OF 1834.

AN ACT to incorporate the Medina and Darien Railroad Company.

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Power of Canal Commissioners.

§ 17. The Canal Commissioners are hereby invested with a general and supervisory power over so much of any railroad as passes over any canal or feeder belonging to this State, or approaches within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this State, and necessary for making any repairs, improvements or alterations in the same; and said company shall not construct their railroad over or at any place within ten rods of any canal or feeder belonging to this State, unless said company shall lay before the Commissioners aforesaid, a map, plan and profile, as well of the canal or feeder as of the route designated for their railroad, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said Canal Commissioners, with such conditions, instructions and limitations as, in the judgment of said Canal Commissioners, the free and perfect use of any such canal or feeder may require.

* * * * *

CHAP. 478, LAWS OF 1855.

AN ACT authorizing a change of the grade of railroads in certain cases.

Grade where crossing a canal.

SECTION 1. Whenever the grade of any railroad shall be changed under the direction of the Canal Commissioners, at any point where such road crosses, or shall cross any canal, or canal feeder, except in the city of Buffalo, it shall be lawful for the directors of the company owning such railroads to alter the grade of such road, on each or either side of the place where such change shall have been so made by order of the Canal Commissioners, for such distance and in such manner as the said directors may deem necessary. And the directors of any railroad company shall also be authorized, at any time, to change the grade of any part of their road except in the city of Buffalo, in such manner as they may deem necessary to avoid accidents, and to facilitate the use of such road; any and all damages arising from such alteration to be appraised in same manner as provided in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same;" and in the several acts amendatory thereof. (See chap. 62, Laws of 1853, page 430)

CHAP. 316, LAWS OF 1836.

AN ACT authorizing the construction of railroads upon Indian lands.

Contracts, how made.

SECTION 1. It shall be lawful for any railroad company that has been, or may hereafter be, chartered by the Legislature of this State, to contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct such railroad, for the right to make such road upon such lands; but no such contract shall vest in such railroad company the fee to such lands, nor the right to occupy the same for any purposes other than what may be necessary for the construction, occupancy and maintenance of such railroad.

Contracts to be ratified by court.

§ 2. No contract made with the chiefs of any nation of Indians, for the purposes mentioned in the first section of this act, shall be valid or effectual until the same shall be ratified by the Court of Common Pleas of the county where such lands may be situated.

CHAP. 135, LAWS OF 1870.

AN ACT for the relief of corporations organized under general laws.

Directors authorized to make and file amended certificates to cure omission or informality; effect thereof.

SECTION 1. The directors of any corporation, organized under any general act for the formation of companies, in whose original certificate of incorporation any informality may exist, by reason of an omission of any matter required to be therein stated, are hereby authorized to make and file an amended certificate or certificates of incorporation, to conform to the general act under which said corporation may be organized; and, upon the making and filing of such amended certificate, the said corporation shall, for all purposes, be deemed and taken to be a corporation from the time of filing such original certificate.

Proviso.

§ 2. Nothing in this act contained shall in any manner affect any suit or proceeding at the time of filing such amended certificate, pending against such corporation, or impair any rights already accrued.

CHAP. 829, LAWS OF 1872.

AN ACT in relation to the formation of railroad companies.

When persons who have signed articles, and who shall thereafter become stockholders, shall be and become a corporation.

SECTION 1. Whenever any number of persons, not less than twenty-five, shall make and sign, or shall, before the passage of this act, have made and signed articles of association, containing the statements required by section 1 of an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the names and places of residence of thirteen directors of the company, as therein provided; and thereafter thirteen directors have been chosen at a meeting of subscribers to such articles, and the names and places of residence of such directors so chosen have been inserted in such articles so subscribed, and there has been indorsed thereon the affidavit prescribed by the second section of said act, and said articles have been filed and recorded in the office of the Secretary of State; thereupon the persons who have subscribed such articles, and all persons who shall thereafter become stockholders in such company, shall be a corporation by the name specified in such articles of association, and have the same powers and privileges, and be subject to the same liabilities, as though such articles had, when signed, contained the names and places of residence of such directors.

CHAP. 222, LAWS OF 1847.

AN ACT in relation to railroad corporations.

Terms of accommodation to be made to connect railroads of different companies.

SECTION 1. Every railroad company whose railroad shall, at or near the same place, connect with, or be intersected by, two or more other railroads which are competing lines for the business to or from such railroad, shall fairly and impartially grant and afford to the proprietors of each of such connecting or intersecting railroads equal terms of accommodations, privileges and facilities in the transportation of cars, passengers, baggage and freight, over and upon their railroads, and over and upon such connecting or intersecting railroads; and shall also grant and afford the proprietors of each of said connecting or intersecting railroads equal facilities in the interchange and use of passenger, baggage, freight and other cars so far as may be required to accommodate the business of each railroad; and also in furnishing passage tickets to passengers who may have come over, or may wish to go over either of such connecting or intersecting railroads; and if the proprietors of either of such connecting or intersecting railroads shall deem themselves aggrieved by the arrangements or conduct of the company with whose railroad their railroad connects in the premises, such proprietors may make application, by petition to the Governor of this State, on giving fourteen days' notice to the companies or proprietors of the railroads with which their railroad connects, for the appointment of three commissioners to inquire into the alleged complaints; and it shall be the duty of said Governor to appoint three disinterested persons as commissioners, who shall summarily examine into the alleged grievances, and shall prescribe such regulations in the premises as will in their judgment secure the enjoyment of equal privileges, accommodations and facilities to the proprietors of the said connecting or intersecting railroads, in the transportation, use and interchange of cars, passengers, baggage and freight, as may be required to accommodate the business of each of said railroads, and in the management and conduct of the several railroads connecting with each other; and the said commissioners shall also determine and fix the terms and conditions upon which such facilities and accommodations shall be afforded to each of said connecting railroads. The award of the commissioners, when approved by the Supreme Court, shall be binding on the parties for

two years, and the court shall have power to compel the performance thereof, by attachment, mandamus or otherwise. And the expenses of the foregoing proceedings shall be paid by such of the parties as shall be determined on by said court.

CHAP. 19, LAWS OF 1851.

AN ACT in relation to railroad corporations.

Line common to two companies may be built by one; articles, how amended.

SECTION 1. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, they may by agreement provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate its line at the point of intersection and may reduce its capital to a sum not less than ten thousand dollars for each mile of the road proposed to be constructed in such amended articles of association.

Part of line may be constructed in another State.

§ 2. Whenever, after due examination, it shall be ascertained by the directors of any railroad company, organized under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed March 26, 1848, or under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, that a part of the line of their railroad proposed to be made between any two points in this State, ought to be located and constructed in an adjoining State, it may be so located and constructed by a vote of two-thirds of all the directors, and the sections of said railroad within this State shall be deemed a connected line, according to the articles of association, and the directors may reduce the capital specified in their articles of association to such amount as may be deemed proper, but not less than the amount required by law for the number of miles of railroad to be actually constructed in this State.

Appointment of commissioners, when may be applied for.

§ 3. Any railroad company which prior to the passage of this act, has been duly formed under the act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848, or "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and which is duly continued in existence, when at least ten thousand dollars for every mile of its railroad, proposed to be constructed in this State, shall be in good faith subscribed to its capital stock, and ten per cent thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for its construction, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed. *(Thus amended, Laws of 1853, chap. 53.)*

Damages for crossing turnpike or plankroad.

§ 4. In case any railroad shall occupy or cross any turnpike or plankroad, the railroad company shall pay such turnpike or plankroad company all damages the turnpike or plankroad company may sustain by reason of the occupancy or crossing such turnpike or plankroad, the damages to be ascertained and paid in the same manner as is provided by law for the assessment and payment of damages in case of taking private property for the use of railroad companies.

CHAP. 843, LAWS OF 1872.

AN ACT to amend an act entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same,'" passed April 2, 1850.

(Section 1 amends Laws of 1866, chapter 697.)

Where portions of lines of two roads embrace same location, companies may provide, by agreement, for construction of line by one company; Railroad Commissioners not to be compelled to surrender bonds until consent of tax payers is obtained.

§ 2. Whenever two railroad companies, for a portion of their respective lines, embrace the same location of line, or whenever their lines connect or are tributary to each other, such companies may, by agreement, provide for the construction, by one of said companies, of so much of said line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed; and the company so constructing the common and connecting and tributary portion of road shall, if the terms of such agreement so provide, be entitled to have and receive all the town bonds which have been or may be authorized to be issued to either company in aid of the construction thereof, and the towns authorized to issue such bonds are hereby authorized and required to exchange the same for the stock or bonds of the railroad company that shall, under such agreement, construct a railroad upon the line designated therein, to an amount specified in the petition of the tax payers, or remaining unpaid on their subscription to the stock of either of said railroad companies. Nothing in this act contained shall be construed so as to compel the commissioners of any town that has assented to bond for railroad purposes for any specified line of railroad to surrender the bonds of any such town to any other railroad organization, until the assent of a majority of the tax payers, owning a majority of the property appearing upon the assessment-roll of such town, has been first obtained.

CHAP. 108, LAWS OF 1875.

AN ACT in relation to railroad corporations.

What companies may consolidate.

SECTION 1. In any case where two or more railroad companies shall have been, or shall hereafter be, organized under the laws of this State, the whole of whose lines, as located by them, respectively, shall form one continuous and connecting line of road, the said companies may consolidate their lines of roads, stock, franchises and property, according to the existing laws of this State, relating to the consolidation of railroad companies; and any such consolidated company may thereupon construct or finish the construction of such continuous line of railroad, and operate the same subject to all provisions of law applicable to railroad corporations organized under the said laws, so far as not inconsistent with this act; but this act shall not in any manner affect the existing laws regulating the rate of fare on any railroad. (*Thus amended Laws of 1883, chap. 387.*)

CHAP. 917, LAWS OF 1869.

AN ACT authorizing the consolidation of certain railroad companies.

Consolidation of railroad companies owning continuous lines.

SECTION 1. It shall and may be lawful for any railroad company or corporation organized under the laws of this State, or of this State and any other State, and operating a railroad or bridge, either wholly within, or partly within and partly without this State, to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company or companies organized under the laws of this State or under the laws of this State and any other State, or under the laws of any other State or States whenever the railroads or branches or any part of the railroad or branches of the companies or corporations so to be consolidated shall or may form a continuous or connecting line of railroad with each other, or by means of any intervening railroad bridge or ferry. (*Thus amended, Laws of 1881 chap. 685.*)

Conditions.

§ 2. Said consolidation shall be made under the conditions, provisions and restrictions, and with the powers hereinafter in this act mentioned and contained, that is to say:

Directors may enter into joint agreement; amount of capital stock.

1. The directors of the companies proposing to consolidate may enter into a joint agreement, under the corporate seal of each company, for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of said companies into that of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization, and the consolidation of said companies or railroads. But in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, as the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

Agreement to be submitted to stockholders; vote to be by ballot; two-thirds vote required; certified copy evidence.

2. Said agreement shall be submitted to the stockholders of each of the said companies or corporations at a meeting thereof called separately for the purpose of taking the same into consideration; due notice of the time and place of holding said meeting, and the object thereof shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, and delivered to such persons respectively, or sent to them by mail when their post-office address is known to the company, at least thirty days before the time of holding such meeting, and also by a general notice published daily for at least four weeks in some newspaper printed in the city, town or county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be con-

sidered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the secretaries of the respective companies, under the seal thereof, and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall from thence be deemed and be taken to be the agreement and act of consolidation of the said companies; and a copy of the said agreement and act of consolidation, duly certified by the Secretary of State, under his official seal, shall be evidence in all courts and places of the existence of said new corporation, and that the foregoing provisions of this act have been fully observed and complied with. (*Thus amended, Laws of 1880, chap. 94.*)

Corporations to be taken as one, on filing agreement of consolidation; rates of fare upon New York Central railroad; act not to apply to street railroads.

§ 3. Upon the making and perfecting such agreement and act of consolidation as hereinbefore provided, and filing the same or a copy thereof in the office of the Secretary of State as aforesaid, the said corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, but such act of consolidation shall not release such new corporation from any of the restrictions, disabilities or duties of the several corporations so consolidated. But nothing in this act contained shall allow any rate of fare for way passengers greater than two cents per mile, to be charged or taken over the track or tracks of that railroad, now known as the New York Central Railroad Company, and the rate of fare for way passengers over the track or tracks now operated by the said New York Central Railroad Company shall continue to be two cents per mile and no more, wherever it is now restricted to that rate of fare. But nothing herein contained shall apply to street railroads.

New corporation succeeds to rights, property, claims, franchises, etc., of roads consolidated.

§ 4. Upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges, exemptions and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of said corporations, as well as all stock subscriptions and other things in action belonging to either of said corporations, shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to the said agreement and act, and the title to all real estate, taken by deed or otherwise, under the laws of this State, vested in either of such corporations, parties to said agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or any thing done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation.

Rights of creditors, and liens not to be impaired; proviso as to existing suits, actions, etc.; suits, how brought against new corporation.

§ 5. The rights of all creditors of, and all liens upon, the property of either of said corporations, parties to said agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of said corporations, except mortgages, shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if said debts or liabilities had been incurred or contracted by it. No suit, action or other proceeding now pending before any court or tribunal, in which either of said railroad companies is a party, shall be deemed to have abated or been discontinued by the

agreement and act of consolidation as aforesaid, but the same may be conducted in the name of the existing corporations to final judgment, or such new corporation may be, by order of the court, on motion, substituted as a party. Suits may be brought and maintained against such new corporation in the courts of this State, for all causes of action, in the same manner as against other railroad corporations therein.

Assessment of real and personal property of new corporation in this State.

§ 6. The real estate of such new corporation, situate within this State, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is, or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this State, as the number of miles of its railroad situate in this State bears to the number of miles of its railroad situate in the other State or States.

Proviso as to rate of passenger fare; act not to apply to street railroads; contract of Buffalo and State Line railroad not to be impaired.

§ 7. Nothing in this act contained shall be so construed as to allow such consolidated company to charge a higher rate of fare per passenger per mile upon any part or portion of such consolidated line than is now allowed by law to be charged by each existing company respectively, nor shall this act apply to street railroads; and nothing in this act contained shall be so construed as to affect or impair in any way the validity of any contract now existing between the Buffalo and State Line Railroad Company and the New York and Erie Railroad Company.

General Railroad Act; how far to apply.

§ 8. All the provisions of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and of the several acts amendatory thereof or in addition thereto, shall be applicable to the new corporation so to be formed as aforesaid, so far as the same are now applicable to the railroad companies of this State which may be consolidated with any other company or companies by virtue of this act.

Parallel and competing lines not authorized to consolidate.

§ 9. No companies or corporations of this State whose railroads run on parallel or competing lines shall be authorized by this act to merge or consolidate.

CHAP. 256, LAWS OF 1875.

AN ACT relating to the consolidation of certain railroad companies.

Consolidation with Pennsylvania companies.

SECTION 1. Any railroad company organized under the laws of this State may merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any railroad company or companies organized under the laws of the State of Pennsylvania, whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad.

Consolidation, how effected.

§ 2. Such consolidation shall be effected in the manner provided for by an act entitled "An act to authorize the consolidation of certain railroad companies," passed May 20, 1869, and also subject to the laws of the State of Pennsylvania.

Stock of municipal corporation, how represented.

§ 3. At any meeting of the stockholders of any such company or corporation to consider any agreement or proposition to consolidate, the commissioners or other officer of any municipal corporation holding or having

charge of any of the capital stock of such railroad company or corporation shall represent such municipal corporation, and may act and vote in person or by proxy on all matters relating to such consolidation in the same manner as individual stockholders.

CHAP. 155, LAWS OF 1880.

AN ACT to facilitate the carrying out of plans and agreements for the reorganization of railroads.

When stock insufficient, how company may increase same; State Engineer and Surveyor to approve.

SECTION 1. Whenever the maximum amount of capital stock mentioned in the certificate of incorporation of any railroad or railway company on file in the office of the Secretary of State shall be insufficient to carry out any plan or agreement of reorganization set forth in such certificate of incorporation, it shall be lawful for the directors, or a majority of the directors, of said company to file an additional certificate with the Secretary of State, which shall set forth the fact of such insufficiency, and the additional amount of capital stock required to carry out such plan or agreement of reorganization, and thereupon, with the approval of the State Engineer and Surveyor, said company shall be authorized to issue such capital stock as fully as if the same had been mentioned or set forth in the original certificate of incorporation. Said additional certificate shall be filed in the office of the Secretary of State within two months after the passage of this act.

CHAP. 215, LAWS OF 1846.

AN ACT to incorporate the New York and Connecticut Railroad Company.

Every railroad company required to contract for carrying the United States mail; penalty.

(Sections 1 to 16, both inclusive, relate to the New York and Connecticut Railroad Company.)

§ 17. Every railroad company, upon being thereto required by the Postmaster-General of the United States, shall enter into a contract with the United States, in the usual form, and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad for such compensation as the said board shall deem reasonable, not exceeding that provided by an act of Congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privileges, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845; and every railroad company that shall neglect or refuse to enter into such contract, upon being so required, shall forfeit and pay the people of this State one hundred dollars for every day it shall so neglect or refuse.

* * * * *

CHAP. 270, LAWS OF 1847.

AN ACT relating to the transportation of freight on certain railroads.

(Sections 1 and 2 are of a local nature, and are, therefore, omitted; sections 3 to 7, both inclusive, relate to tolls on railroads abolished by chapter 497, Laws of 1857).

Saving clause.

§ 8. No provision of the preceding sections of this act shall be deemed in any way to affect the ordinary baggage of passengers, provided the same shall not exceed in weight one hundred pounds.

Rights of railroad companies.

§ 9. Any railroad company receiving freight for transportation shall be entitled to the same rights and be subject to the same liabilities as com-

mon carriers. Whenever two or more railroads are connected together, any company owning either of said roads receiving freight to be transported to any place on the line of either of the said roads so connected shall be liable as common carriers for the delivery of such freight at such place. In case any such company shall become liable to pay any sum by reason of the neglect or misconduct of any other company or companies, the company paying such sum may collect the same of the company or companies by reason of whose neglect or misconduct it became so liable.

CHAP. 272, LAWS OF 1847.

AN ACT to authorize railroad companies to lay down upon their roads the heavy iron rail, to alter the line of their road, and to acquire the title to lands which have failed.

(Sections 1 and 2 are now obsolete, and are therefore omitted).

Provision to enable companies to acquire valid title to land.

§ 3. In any case where a railroad shall not have acquired a valid and sufficient title to any land upon which they may have constructed their tracks, or where the title to any such lands has been or shall hereafter be rendered invalid by reason of any mortgage, judgment or other lien affecting the same, then such company in either case is authorized to obtain and acquire title to the said land by purchase of the persons, bodies corporate or politic, owning the same, or having an interest therein, if such purchase can be affected by agreement between the owners thereof and such company; but if not, such company shall have the power to cause compensation to be made therefor, and for that purpose they shall present a petition to a court of record in the county in which such land may lie, setting forth the failure of such title, and the manner in which such failure occurred, and the name and residence of the owner or claimants, and praying for the drawing of a jury to determine the compensation to be made therefor. The said court of record shall thereupon direct notice to be given, in writing, to the owners or claimants of such lands, of the time and place of the drawing of such jury, which drawing shall be in the county in which such lands are situated, and upon proof of the service of such notice and hearing, the parties who may attend such court of record shall cause such jury to be drawn in such manner and at such place as it shall direct; said court shall cause the said jury to be sworn, and shall prescribe the time and place of the meeting of said jury, and the notices to be given to the owners or claimants of the proceedings before said jury. The said jury shall view the premises for which compensation is to be made, and shall, without fear, favor or partiality, determine the compensation to be made for said land, the title to which shall have become invalid or insufficient as aforesaid, and may hear and examine witnesses on oath in relation to the same. The said jury shall make an inquisition of their appraisement or assessment, and shall cause the same to be filed in the office of the clerk of the county in which such land is situated. Upon proof to the court, within thirty days after the filing of the inquisition of the jury, of payment to the owner or claimant, or of depositing to his or their credit in such bank as the said court shall direct, of the amount of such appraisement, and of all the costs and expenses attending it, including reasonable counsel fees (to be taxed and certified by said court), the said court shall make an order describing the land and reciting the assessment or appraisement thereof; and the mode of making it, which order shall be recorded in the office of the clerk of the county in which the land is situated, in like manner as if the same were a deed of conveyance, and such railroad company or corporation shall thereupon become possessed of such land during the continuance of the corporation, and may use the same for the purposes of such corporation. This provision shall not be construed to change or impair the duties or obligations of such corporation in regard to fencing said land or making and maintaining crossing places over said road, as prescribed in their charter; but nothing herein contained shall be construed to impair or affect the right of any individual

to recover the costs and expenses of any legal proceedings commenced prior to the passage of this act, or to recover such sum for the use of any land occupied by such corporation as he or she is entitled to by law.

(Section 4, as to change of line, and section 5, as to weight of rails, etc., omitted as unimportant.)

Checks to be furnished and attached to each parcel of baggage; when baggage to be given to owner.

§ 6. It shall be the duty of every railroad company hereafter to furnish and attach checks to each separate parcel of baggage which they, by their agents or officers, receive from any person for transportation as ordinary or extraordinary baggage, in their baggage cars accompanying their passenger trains, and they shall also furnish to such a person a duplicate check or checks, having upon it or them a corresponding number to that attached to each parcel of baggage; said checks and duplicates shall be made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and each check furnished with a convenient strap or other appendage for attaching to baggage, and accompanying it a duplicate to be delivered to the person delivering or owning such baggage, and whenever the owner of said baggage or other person shall, at the place where the cars usually stop, to which said baggage was to be transported, or at any other regular stopping place, present said duplicate check or checks to the officer or agent of the railroad, or any railroad over any portion of which said baggage was transported, they shall deliver it up to the person so offering the duplicate check or checks without unnecessary delay; and a neglect or refusal on the part of any railroad company, its officers or agents, to furnish and attach to any person's ordinary traveling baggage or extraordinary baggage, if conveyed by their passenger train, a suitable check or checks, and to furnish to such person proper duplicate or duplicates, shall forfeit and pay to such person or owner, for every such refusal or neglect, the sum of \$10, to be recovered in an action for debt.

(Chapter 404, Laws of 1847, being an act to enable railroad companies to alter their routes and acquire title to land, is omitted as being generally obsolete.)

(Chapter 405, Laws of 1847, being an act to authorize certain railroad companies to issue stock or to borrow money to lay a second track, is omitted as being generally obsolete.)

CHAP. 573, LAWS OF 1868.

AN ACT to afford the same facilities to passengers or property transported by steamboat on the Hudson river as is afforded by railroads.

Steamboats authorized to furnish tickets.

SECTION 1. The proprietors of any steamboat, or line of steamboats, navigating the Hudson river are hereby authorized and empowered to furnish tickets upon being paid therefor, for the transportation of passengers from any station on the line of any railroad terminating at the city of Albany or Troy, for the conveyance of such passengers from the city of Albany or Troy to the city of New York on their said steamboats. On such tickets being furnished to any such railroad company it shall be their duty to require their ticket agent at any station on the line of their road, to sell such tickets, and to any passenger who shall make application therefor, at a price which shall be equal to the amount of fare charged upon such road to the city of Albany or Troy, with the addition of such price as shall be fixed by the proprietor of such steamboat for the transportation of such passenger from Albany or Troy to New York.

Baggage checks.

§ 2. The proprietors of said steamboat or line of steamboats, are also authorized and empowered to furnish baggage checks for the transportation of any passenger's baggage through to the city of New York by the

way of their said steamboats, and on such checks being furnished to the baggage-master, at any station on the line of said railroads, it shall be his duty to check baggage on the application of any passenger through to the city of New York, which baggage, on its arrival in the city of Albany or Troy, shall be delivered up to the authorized agent of any steamboat, or line of steamboats, to be transported from the railroad to the steamboat on which such passenger contemplates going, without the check being removed from such baggage. And said baggage shall be transported from railroad station to steamboat landings, and from steamboat landings to railroad station by said steamboat owners, free of charge.

Railroads to furnish tickets.

§ 3. It is hereby made the duty of every railroad company which terminates at the city of Albany or Troy, on application being made therefor by the proprietor of any steamboat, or line of steamboats, navigating the Hudson river, to furnish them with tickets for the transportation of passengers from the city of Albany or Troy to any point on the line of their respective roads, to be sold by such steamboat proprietors in their respective offices, and to receive and transport the baggage of any passenger which shall be checked through to any point beyond the city of Albany or Troy; such tickets to be sold and paid for to the railroad or steamboat company which shall furnish the same at the price charged by such company for the conveyance of such passenger to the place which such ticket purports to carry him. The object and intent of this act being to compel railroad companies to furnish the same facilities to passengers going to or from the city of New York by boat as is afforded those who go by the railroad.

Transfer of freight.

§ 4. If any freight shall be delivered at any station on the line of any railroad which terminates in the city of Albany or Troy for transportation to the city of New York, which is marked to go to New York via boat or any particular line of boats, it shall be the duty of the railroad company to whose agent such freight shall be delivered to receive the same and transport it with all convenient speed to the city of Albany, and on its arrival there the company over whose road the same has been transported shall forthwith cause to be notified the agent of the steamboat line by which it is directed to be sent, and shall deliver the same to such agent with the bill of charges thereon due such railroad company, for the payment of which charges the proprietor or proprietors of such steamboat line shall be responsible. But the railroad company transporting such freight shall not charge for its transportation over its road any greater sum than they charge for carrying the same kind of freight the same distance over their road if the same were transported from Albany or Troy to New York by railroad, and any freight delivered by the authorized agent of any steamboat or steamboat company for transportation over any railroad which shall have been brought from New York by boat shall be transported by such railroad company to its place of destination for the same price as it would be if brought from New York by railroad.

Penalty.

§ 5. Any railroad company in this State, whose agent or servants shall neglect or refuse to sell tickets or furnish a check, as is provided for in this act, when the same shall have been furnished them, shall be liable to the same penalty as is provided for in section 37 of the act passed April second, 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and no fare or toll shall be collected or received from any passenger whose application for such ticket or check shall have been refused for riding over the road of said company, and in addition thereto the said railroad corporation shall be liable to a penalty of \$250, to be recovered in the name of the proprietor or proprietors of any steamboat line navigating the Hudson river in any court of competent jurisdiction for each day they shall neglect or refuse to comply with the provisions of this act, unless such neglect or refusal is caused by a failure on the part of such steamboat proprietor or proprietors to furnish tickets and checks as herein provided for.

Limitation.

§ 6. The provisions of this act, so far as relates to the sale of tickets and furnishing of checks, shall not apply to either the Hudson River or New York and Harlem Railroad Companies.

CHAP. 364, LAWS OF 1882.

AN ACT to regulate the interchange of freight and passengers between the Central Vermont railroad and the Ogdensburgh and Lake Champlain railroad at Rouse's Point.

Freight to be exchanged in same cars in which same is billed for transportation.

SECTION 1. All freight billed or consigned from points in this State, or from points on connecting railways to points reached by the Central Vermont railroad, and lines leased and managed by said Central Vermont railroad, and Ogdensburgh and Lake Champlain railroad and their connections, shall be exchanged in the same cars in which said freight is billed for transportation to its destination, and no discrimination shall be made by either of the companies named in this act, on account of said cars belonging to different corporations or carrying through all rail or other freight. Provided said cars shall be in the condition required under the rules and regulations usual and in force among connecting railroads.

Cars offered by one company to another to be taken in the usual manner.

§ 2. All passenger, sleeping, baggage or other cars offered by one company to the other shall be taken in the same manner as is usual in the interchange of through passenger cars by connecting railroads.

No additional charge to be made.

§ 3. No additional charge shall be made by reason of one company taking from the other for transportation to destination any cars, freight or passengers under the provisions of this act.

Penalty for violation of this act.

§ 4. Either of the companies named in this act violating the provisions of the same shall forfeit to the other as liquidated damages for each case of refusal or neglect to comply with the terms of this act the sum of \$500.

CHAP. 282, LAWS OF 1854.

AN ACT to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Sections 1 to 3, inclusive, amend General Railroad Act.)

Acquiring real estate, not to apply to certain real estate in Buffalo.

§ 4. In case any railroad company, the line or route of whose road has been surveyed and designated, and the certificate thereof duly filed as required by law, is unable to agree for the purchase of any real estate required for its roadway or other purposes, the said corporation shall have the right to acquire title to the same by the special proceedings prescribed in the act hereby amended; and all real estate acquired by any railroad corporation under and pursuant to the provisions

of this act, for the objects and purposes herein expressed, shall be deemed to be acquired for public use. But this section shall not be so construed as to apply to any real estate in the city of Buffalo, situated between Main and Michigan streets, except that lying between Exchange street and Buffalo river. (*Thus amended, Laws of 1882, chap. 82.*)

Courts empowered to carry proceedings into effect.

§ 5. In all cases of appraisal under this act, and the act hereby amended, where the mode or manner of conducting all or any of the proceedings to the appraisal, and the proceedings consequent thereon, are not expressly provided for by the statute, the courts before whom such proceedings may be pending shall have the power to make all the necessary orders, and give the proper directions to carry into effect the object and intent of this and the aforesaid act; and the practice in such cases shall conform, as near as may be, to the ordinary practice in such courts.

Appraisal not affected by transfer of property.

§ 6. When any proceedings of appraisal shall have been commenced, no change of ownership, by voluntary conveyance or transfer of the real estate, or any interest therein, or of the subject-matter of the appraisal, shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made or attempted to be made.

Penalties.

§ 7. All the penalties hereinbefore mentioned may be sued for in the name of the people of the State of New York, by the district attorney of the county wherein the same shall accrue, within ten days thereafter; and in case such district attorney shall omit or neglect to sue for such fine or fines within the time aforesaid, then it may and shall be lawful for any person aggrieved to sue therefor in the name of the overseers of the poor of the town wherein any such fine or fines shall have accrued, which, when recovered, shall be paid to the said overseers of the poor, for the benefit of the poor of said town. And in case such person shall fail to make out and maintain any such action, it shall be the duty of the court before whom any such action shall be had to enter a judgment against the complainant for the costs of said action. (*As changed by provisions of chap. 593, Laws of 1886. See § 421, Penal Code, p. 487.*)

Fencing road ; cattle-guards.

§ 8. Every railroad corporation, whose line of road is open for use, shall within three months after the passage of this act, and every railroad company formed or to be formed, but whose lines are not now open for use, shall, before the lines of such railroad are opened, erect and thereafter maintain fences on the sides of their roads, of the height and strength of a division fence, as required by law, with opening or gates, or bars therein at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain, cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such railroad corporation and its agents shall be liable for damages which shall be done by the agents or engines of any such corporation to any cattle, horses, sheep or hogs thereon, and when such fences and guards shall have been duly made and shall be kept in good repair, such railroad corporation shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this sec-

tion; but no railroad corporation shall be required to fence the sides of its roads, except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad from the lands adjoining the same.

Owner of land, when to build.

§ 9. But it shall be the duty of every owner of land adjoining any railroad, who has received, or whose grantor has received, a specific sum as compensation for fencing along the line of land taken for the purpose of said railroad, and has agreed to build and maintain a lawful fence on the line of said road, to build and maintain such fence; and if said owner, his heir or assign, shall not build said fence within thirty days after he has been notified so to do by the said railroad corporation, or shall neglect to maintain said fences, if built, said corporations shall build and thereafter maintain such fence, and may maintain a civil action against the person so neglecting to build or maintain said fence, to recover the expense thereof.

Unclaimed freight.

§ 10. Every railroad company which shall have had unclaimed freight, not perishable, in its possession for a period of one year at least, may proceed to sell the same at public auction, and out of the proceeds may retain the charges of transportation and storage of such freight, and the expenses of advertising and sale thereof; but no such sale shall be made until the expiration of four weeks from the first publication of notice of such sale in the State paper, and also in a newspaper published at or nearest the place at which such freight was directed to be left, and also at the place where such sale is to take place; and said notice shall contain a description of such freight, the place at which and the time when the same was left, as near as may be, together with the name of the owner or person to whom consigned, if known; and the expenses incurred for advertising shall be a lien upon such freight, in a ratable proportion, according to the value of each article or package or parcel, if more than one.

Perishable freight.

§ 11. In case such unclaimed freight shall, in its nature, be perishable, then the same may be sold as soon as it can be, on giving the notice required in the preceding section, after its receipt at the place where it was directed to be left.

Proceeds of sale.

§ 12. Such railroad company shall make an entry of the balance of the proceeds of the sale, if any, of each parcel of freight owned by or consigned to the same person, as near as can be ascertained, and at any time within five years thereafter shall refund any surplus so retained to the owner of such freight, his heirs or assigns, on satisfactory proof of such ownership.

Lines common to two roads; how constructed.

§ 13. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, or whenever by the connection of two or more railroads, the same points of termination are reached by railroad communication, any two such railroads may, by agreement, provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Any road so connecting may alter and amend its articles of association, so as to terminate at the point of intersection, and may reduce its capital to a sum not less than \$10,000 for each mile of the road constructed, or proposed to be constructed in such amended articles of association. This section shall not be so construed as to apply to any railroad company or companies, so far as its or their line of road or roads are within the bounds of any incorporated city of this State.

Persons on whom process may be served.

§ 14. Every railroad corporation in this State shall, within thirty days after this act shall take effect, designate some person, residing in each of the counties through or into which such railroad may run, on whom process, to be issued by a justice of the peace, may be served, and shall file such designation in the office of the clerk of the county where the person so designated shall reside, and a copy of such designation, duly certified by such clerk, shall be evidence of such appointment, and the service of any process upon the person so designated or named, to be issued by any justice of the peace in any civil action or matter of which said justice may have jurisdiction, shall be as valid and effectual as if served upon the president or any director of any such corporation, as now provided by law.

Service on agents and servants.

§ 15. In all cases where such designation shall not be made as aforesaid, and where no officer of such corporation shall reside in the county, on whom process can be served according to the existing provisions of law, the process mentioned in the next preceding section may be served on any local superintendent of repairs, freight agent, agent to sell tickets, or station keeper of such corporation, residing in such county, which service shall be as effectual in all respects as if made on the president or any director of such corporation.

(§ 16 amends the General Railroad Act of 1850.)

Where track crosses canals.

§ 17. The directors of any railroad company whose track crosses any of the canals of this State, and the present grade thereof shall be raised in consequence of directions given by the Canal Commissioners, may, with the assent of the said Canal Commissioners, lay out a new line of road for the purpose of crossing such canal on a more favorable grade, and may extend such new line and connect the same with any other line of road owned by the same company, and a survey, map and certificate of such new or altered line shall be made and filed in the clerk's office of the proper county; and such company shall have the same right and power to acquire title to any lands required for the purposes of such company, under the provisions of this section, as it would have in the location of a line of road in the first instance; and all the provisions of the act hereby amended, relative to acquiring title to land for railroad purposes, shall apply to such new or altered line; and all lands acquired by any railroad company by appraisal, for passenger and freight depots, shall be held by such company in fee; but no new line or route of road can be laid out and established, as contemplated in this section, in any city or village, unless the same be sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village, nor shall any railroad company be compelled to abandon any existing line of road in consequence of establishing such new line of road.

Repeal.

§ 18. Section thirty-nine of the act hereby amended is repealed, but this repeal shall not affect any action or proceeding heretofore commenced under said section.

CHAP. 697, LAWS OF 1866.

AN ACT supplementary to the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

Companies for operating railway by stationary power.

SECTION 1. It shall be lawful for any number of persons, not less than ten, to form themselves into a company for constructing, maintaining and operating a railway for public use, in the conveyance of persons and property, by means of a propelling rope or cable attached to stationary power; and upon compliance with the provisions of the first three sections of the

act to which this is supplementary, they shall become a body corporate and politic, according to the provisions of said act; *Provided*, That the directors of any such company may be limited to any number not less than five, to be specified in the articles of association.

By what name designated.

§ 2. Any such company may style itself by the name of the inventor or patentee of the particular method of propulsion used, together with such local designation as the associates may deem desirable, and shall, by such name set forth in their articles of association, have and enjoy all the powers and privileges and be subject to the liabilities mentioned in the aforesaid act, passed April 2, 1850, so far as the same are comprised in the first twenty-six sections and the twenty-eighth section thereof.

Fare.

§ 3. (See chap. 422, Laws 1884, below.)

When company may operate roads in other States and Countries.

§ 4. It shall be lawful for any company formed under this act to construct and operate and maintain a road or roads in any other State or country in which the same does not conflict with the laws of such State or country; provided the assent of inventors or patentees are first obtained in the same manner and extent as would be necessary within the United States.

Extension of corporate existence, how effected; firms, certified copy of certificate evidence.

§ 5. The continuance of any railroad corporation now existing, or hereafter to be formed under the laws of this State, may be extended beyond the time named for that purpose in its act or acts of incorporation, or in the articles of association of such corporation, by the filing in the office of the Secretary of State a certificate of consent to such extension signed by the holders of two-thirds in amount of the stock held by the stockholders of such corporation; and in every case where such consent has been or shall be so filed, the term of existence of such corporation is hereby extended and declared to be extended for the period designated in such certificate, and each such corporation shall, during the period named in such certificate, possess and enjoy all the rights, privileges and franchises enjoyed or exercised by such corporation at the time such certificate was or shall be so filed. Each such certificate shall be proved or acknowledged by the individuals signing the same before some officer authorized by law to take acknowledgments of deeds; and whenever such stock shall be owned or held by firms or copartnerships, the execution of such certificate shall be acknowledged by one or more of such copartners; and it shall be the duty of the Secretary of State to record such certificate in the book kept in his office for the record of articles of association of railroad companies. A copy of such certificate and of the acknowledgment thereof, certified by the Secretary of State, shall be presumptive evidence of the truth of the facts therein stated. (*Thus amended, Laws 1874, chap. 240.*)

CHAP. 422, LAWS OF 1884.

AN ACT to further amend chapter 697 of the Laws of 1866, entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same.'"

SECTION 1. Section three of chapter six hundred and ninety-seven of the Laws of eighteen hundred and sixty-six, entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same,'" passed April second, eighteen hundred and fifty, is hereby amended so as to read as follows:

Fare, rate of.

§ 3. Companies formed under the provisions of this supplementary act may fix and collect rates of fare on their respective roads, not exceeding five cents for each mile or any fraction of a mile, for each passenger, and with the right to a minimum fare of ten cents; except when such railroad does not exceed two miles in length, and rises or overcomes elevations not less than five hundred feet to the mile, in which case it shall be lawful for such companies to fix and collect rates of fare on their respective roads not more than five cents for each one hundred feet of elevation so overcome for each passenger.

To what roads applicable.

§ 2. The provisions of this act shall apply to railways not exceeding four miles in length and overcoming elevations not less than five hundred feet to the mile, where the motive power is locomotives furnished with cogs working into cogs on the railway.

CHAP. 536, LAWS OF 1887.

AN ACT in relation to railroad corporations.

Mountain railroads, rate of fare on.

SECTION 1. Any railroad corporation now or hereafter organized under the laws of this State and which shall hereafter construct its road, may, where its railroad overcomes an elevation of more than one thousand feet within a distance of two miles, charge and receive for each passenger transported one way not more than seven cents for each one hundred feet of elevation; where its railroad overcomes an elevation exceeding three hundred feet to a mile, and is operated by other power than locomotive engines, it may charge and receive for each passenger transported one way at the rate of five cents for each one hundred feet of elevation; where its railroad overcomes an elevation of over two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, it may charge and receive for each passenger transported one way at the rate of ten cents per mile.

Motive power.

§ 2. Any such railroad company whose railroad overcomes either of the elevations described in the first section may use any motive power or powers.

Limitation of act.

§ 3. This act shall not be of force within the limits of any incorporated village or city in this State.

CHAP. 560, LAWS OF 1871.

AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Section 1 amends General Railroad Act of 1850.)

Change of terminus of intersecting roads; consent of stockholders requisite.

§ 2. Whenever any railroad company shall have located its road so as to terminate at any railroad previously constructed or located, whereby communication might be had with any incorporated city of this State, and any other railroad company shall subsequently locate its road so as to intersect the road of said first-mentioned company, and thereby, by itself or its connections, afford communication with such city, then and in such case said first-mentioned company may alter and amend its articles of association so as to have its road terminate at the point of intersection

with said road so subsequently located, provided the consent of the stockholders representing or holding two-thirds of the stock of said company shall have been first obtained thereto.

Maps, surveys, etc., when to be filed or recorded in register's office; transfer and refiling authorized.

§ 3. Whenever in said act any map, survey, profile, reports, certificate or other paper is directed to be filed or recorded in the office of the county clerk, the same shall be filed or recorded in the office of the register of the county, provided there be a register's office in said county, and all maps, profiles, surveys, reports, certificates or other papers which have, pursuant to the provisions of said act, been heretofore filed or recorded in the office of the clerk of any county in which there is a register, shall be, within thirty days after the passage of this act, transferred to the office of such register, and shall be by him refiled or recorded as of the date of the original filing or record.

(§ 4 also amends the General Railroad Act of 1850.)

Narrow-gauge roads; when articles may be filed; contents of articles; amount of capital.

§ 5. Corporations may be formed under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, for the purpose of constructing and operating railroads for public use in transporting persons and property, of the gauge of three feet and six inches or less, but not less than thirty inches within the rails; whenever capital stock of said corporation to the amount of \$1,000 for every mile of such railroad proposed to be constructed and operated has been in good faith subscribed, and whenever \$1,000 or more for every mile of such railroad proposed to be constructed shall be in like manner subscribed, and ten per cent thereon in good faith actually paid in cash to the directors named in the articles of association, and an affidavit made by at least three of said directors and indorsed on or annexed to said articles that the amount of stock hereby required has been so subscribed as aforesaid, and ten per cent thereon paid as aforesaid, and that it is intended in good faith to construct and operate such railroad, then said articles with such affidavit may be filed and recorded in the office of the Secretary of State, provided said articles contain all the other facts required by law to be stated in articles of association made for organizing railroad corporations under said act, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the amount of the capital stock of the company stated in said articles shall not be less than \$3,000 for every mile of road constructed, or proposed to be constructed, and all of the provisions of said last-mentioned act shall apply to corporations formed for the construction and operating of railroads of the gauge hereinabove mentioned, except as herein provided, or otherwise provided by law. (*Thus amended, Laws of 1879, chap. 293, subd. now § 5 of chap. 560 of Laws of 1850.*)

Right of way, how acquired; weight of rails; fare proviso; weight of engine.

§ 6. Any railroad company, duly organized according to law, when the gauge of its proposed railroad shall be three feet and six inches or less, but not less than thirty inches within the rail, may whenever \$2,000 for every mile of road to be constructed has been, in good faith, subscribed and ten per cent thereon paid, in good faith, in cash, apply to the Supreme Court, in the manner provided by law, for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title of lands necessary for the construction and maintenance and operating said railroad to the same extent and in the same manner as if the whole amount of the capital stock, specified in its articles of association, was in like manner subscribed and ten per cent thereon in like manner paid in cash; and may lay upon such road iron of a weight not less than twenty-five pounds to the lineal yard; such railroad company may charge and receive, when its road is not more than twenty-five miles in length, not exceeding five cents per mile; when its road is more than twenty-five and not more

than forty miles in length, not exceeding four cents per mile; and when the road is more than forty miles in length, not exceeding three cents per mile for each passenger and his ordinary baggage transported on said road, providing that nothing relating to fares in this section shall apply to railroad companies now incorporated, or to any railroad, now in operation, or to any railroad or part thereof located, or to be located, in the county of Kings, county of New York, or within the limits of an incorporated city. And it is further provided, that in case the weight of rail used shall not exceed twenty-five pounds per lineal yard, such railroad company shall not use an engine exceeding eighteen tons weight, or run at a greater speed than fifteen miles per hour. (*Thus amended, Laws 1883, chap. 384.*)

(As to Niagara Falls and Whirlpool Ry. Co., see Laws of 1886, chap. 456.)

(As to Chateaugay R. R. Co., see Laws of 1887, chap. 448.)

Existing corporations may construct narrow-gauge road.

§ 7. Any railroad corporation now duly organized and legally kept in existence, which has not constructed its railroad, may construct a railroad of the gauge hereinbefore mentioned, and may acquire title to lands necessary for the construction, maintenance and operating of such railroad, on complying with the provisions of this act, and of all other provisions of law not inconsistent herewith.

CHAP. 470, LAWS OF 1881.

AN ACT in relation to rates of fare upon certain surface steam railroads.

Rate of fare.

SECTION 1. Any surface steam railroad company created by the laws of this State, whose main line does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city, may collect and receive fare at the rate of five cents each from any and all passengers traveling upon its road a distance of one mile or less, but nothing herein contained shall be deemed to authorize such railroad company to collect or receive fare from passengers traveling upon its road or any connecting line a distance of more than one mile at a greater rate than is now allowed by law for each mile or fraction thereof traveled by them.

CHAP. 386, LAWS OF 1883.

AN ACT in relation to fare on short railroads, and having tracks of two gauges and not entering the limits of any incorporated city.

Rate of fare.

SECTION 1. Any railroad corporation now duly organized and having a railroad of the ordinary gauge, or the lessee of any such corporation which may by the laying down of a third rail so as also to create a track of the gauge of three feet and six inches or less, but not less than thirty inches between the rails, shall for the purpose of asking and receiving fare for the transportation of passengers over the said narrow-gauge track, be deemed a railroad of the gauge of three feet and six inches or less, not less than thirty inches between the rails, when the said narrow-gauge does not enter or traverse the limits of any incorporated city and said road does not exceed six miles in length, including any connecting railroad of the same gauge.

CHAP. 38, LAWS OF 1889.

AN ACT to regulate the payment of fares upon railroads.

Extra fare may be exacted when no ticket is purchased; rebate ticket to be issued therefor.

SECTION 1. It shall be lawful for any company owning or operating a steam railroad in this State, to demand and collect an excess charge of ten cents over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this State, provided, however, that it shall be the duty of such company to give to any passenger paying such excess, a receipt or other evidence of such

payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded, upon the delivery of the same at any ticket office of said company, upon the fine of their railroad, and said company shall refund the same upon demand; and provided further that this act shall not apply to any passenger taking passage from a station or stopping place when tickets cannot be purchased during half an hour previous to the schedule time for the departure of said train on which such passenger takes passage.

CHAP. 775, LAWS OF 1867.

AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

When corporate powers shall cease.

SECTION 1. If any corporation formed under an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, shall not, within five years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing its articles of association, as aforesaid, its corporate existence and powers shall cease.

CHAP. 598, LAWS OF 1875.

AN ACT in relation to railroad corporations.

Extending time for construction.

SECTION 1. Any existing railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified by its charter or articles of association, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to construct its railroad within the time heretofore limited shall not cause a forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power has been forfeited from any cause. (*This amended, Laws of 1879, chap. 350.*)

CHAP. 405, LAWS OF 1882.

AN ACT in relation to railroad corporations.

Time extended in which to complete road.

SECTION 1. Any railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified in its charter or articles of association, or heretofore limited by law, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to expend ten per centum on the amount of its capital, or to have completed its road within the time heretofore limited, shall not be deemed a cause of forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power shall have ceased prior to January first, eighteen hundred and eighty-two, who shall have been judicially ascertained and determined to have been forfeited from any cause.

Not to apply to certain corporations.

§ 2. The provisions of this act shall not extend or apply to any corporation or company, or to the assignee or successor of any corporation or company, organized under chapter three hundred and twenty-six of the laws of eighteen hundred and eighty, entitled "An act relating to the banks and prism of the Genesee Valley canal, and for the sale thereof," or to any

corporation or company that has already commenced the construction of its road. The provisions of this act shall not extend or apply to the New York and Albany Railroad Company.

CHAP. 264, LAWS OF 1878.

AN ACT to authorize corporations organized under the laws of this State to reduce their capital stock.

May diminish capital stock; proviso.

SECTION 1. Any corporation or company organized under general or a special law of the State, and now existing, or which may hereafter be organized under such general or special law, may diminish its capital stock by complying with the provisions of this act, to any amount which may be deemed sufficient and proper for the purposes of the corporation. But nothing in this act shall be so construed as to relieve any holder or owner of stock in such corporation from any personal liability existing prior to such reduction; provided, that nothing in this act contained shall be construed to in any manner interfere with or affect any law now in existence, authorizing any corporation heretofore organized to reduce its capital stock.

Notice of meeting to reduce stock; necessary vote.

§ 2. Whenever any company shall desire to call a meeting of the stockholders, for the purpose of diminishing the amount of its capital stock, it shall be the duty of the trustees or directors to publish a notice, signed by at least a majority of them, in a newspaper in the county in which the business of the company is carried on, or its principal office is located, if any shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office, addressed to each stockholder, at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to diminish the capital; and a vote of at least two-thirds of all the shares of stock shall be necessary to a diminution of the amount of its capital stock.

Stock, how reduced; certificate, when filed; approval of Comptroller.

§ 3. If, at the time and place specified in the notice provided for in the preceding section of this act, the stockholders shall appear in person or by proxy, in numbers representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the trustees chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present in person or by proxy, and if, in canvassing the votes, it shall be found that a sufficient number of votes has been given in favor of diminishing the amount of capital, a certificate of the proceedings showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be diminished, shall be made, signed and verified by the chairman, and such certificate shall be acknowledged by the chairman and filed in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the Secretary of State, with the approval of the Comptroller indorsed thereon, to the effect that the reduced capital is sufficient for the proper purposes of the company, and is in excess of all debts and liabilities of the company, exclusive of debts secured by trust mortgages, and that the actual market value of the stock of the company prior to the reduction of the capital was less than the par value of the same, and when so filed, the capital stock of such corporation shall be reduced to the amount specified in such certificate, and the amount of capital left in the possession of the company over and above the amount to which the capital shall be so reduced shall be returned to the stockholders pro rata at such times and in such manner as the trustees or directors shall determine.

CHAP. 225, LAWS OF 1880.

AN ACT to authorize the exchange of preferred stock for common stock of corporations.

Exchange of preferred stock for common, may be authorized by vote of two-thirds of the directors.

SECTION 1. Every corporation organized under the laws of this State which has heretofore issued, or may hereafter issue, both preferred and common stock, forming part of the capital stock of such corporation, is hereby authorized, whenever the directors of such corporation shall, by vote of two thirds of their number, declare it for the interest of the corporation so to do, and the holder of any such preferred stock may request, in writing, the exchange of the same for the common stock, to exchange the preferred stock of such holder for common stock, and to issue certificates of common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for organization of such company or the issue of such preferred stock; provided, however, that the total amount of the capital stock of such company shall not be increased thereby.

CHAP. 218, LAWS OF 1839.

AN ACT authorizing railroad companies to contract with each other.

Companies may contract.

SECTION 1. It shall be lawful hereafter for any railroad corporation to contract with any other railroad corporation for the use of their respective roads, and thereafter to use the same in such manner as may be prescribed in such contract. But nothing in this act contained shall authorize the road of any railroad corporation to be used by any other railroad corporation, in a manner inconsistent with the provisions of the charter of the corporation whose railroad is to be used under such contract.

CHAP. 302, LAWS OF 1855.

Lessee of corporation may take, surrender or transfer capital stock of leased road and issue in exchange therefor like amount of its own capital stock at par in certain cases, effect thereof.

SECTION 1. Any railroad corporation created by the laws of this State, or its successors, now being the lessee of the road of any other railroad corporation, may take, surrender, or transfer of the capital stock of the stockholders, or any of them, in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporations taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex-officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation, whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the said corporation to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation to whom such surrender or transfer of the

said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder, not so surrendering or transferring his stock, shall not be in any way affected hereby; nor shall existing liabilities, or the rights of creditors of the corporation whose stock shall have been so surrendered, be in any way affected or impaired by this act.

Not to apply to Genesee Valley railroad.

§ 2. This act shall not be construed as applying to or embracing the Rochester and Genesee Valley railroad, nor any part thereof, and said road is hereby expressly excepted from the operation of the same.

CHAP. 254, LAWS OF 1867.

AN ACT in relation to railroads held under lease.

Lessees of railroad may acquire stock therein.

SECTION 1. Any railroad corporation created by the laws of this State, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer, shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex-officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the said corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation, to whom such surrender or transfer of the said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder not so surrendering or transferring his stock shall not be in any way affected hereby, nor shall existing liabilities or the rights of creditors of the corporation, whose stock shall have been so surrendered or transferred, be in any way affected or impaired by this act. (*Thus amended, Laws of 1879, chap. 503.*)

CHAP. 349, LAWS OF 1880.

AN ACT relating to leases of railroads and railroad property within this State.

Lease of railroads not exceeding ten miles in length.

SECTION 1. Whenever any railroad, or railroad route not exceeding ten miles in length, and its franchises within this State has been heretofore leased by one railroad company or corporation to any other railroad company or corporation with the assent of a majority in amount of the stockholders of the company owning such leased railroad or railroad route and franchises, it shall be immaterial whether the assent of said stockholders has been obtained at a stockholders' meeting, or has been individually given in writing; and the leases of all such railroads within this State, which have received such assent of a majority in amount of the individual stockholders of the company or corporation owning the leased road, are hereby declared to be as legal and valid as they would have been had such assent been given at a stockholders' meeting regularly called for that

purpose. And any railroad company now engaged in operating any railroad so leased may continue to use and operate the same during the term of the lease, upon complying with the terms, covenants and provisions of such lease; and to that end all such leases are hereby ratified and confirmed.

CHAP. 582, LAWS OF 1864.

AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Section 1 amends subdivision 5 of section 28, General Railroad Act of 1850.)

Lessees of railroad corporations to maintain fences; cattle-guards.

§ 2. And when the railroad of any railroad corporation shall be leased to any other railroad company, or to any person or persons, such lessee shall maintain fences on the sides of the road so leased, of the height and strength of a division fence, as required by law, with openings, or gates, or bars therein, at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain cattle-guards at all road crossings, suitable and sufficient to prevent horses, cattle, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such lessees and their agents shall be liable for damages which shall be done by the agents or engineers of any such corporation, to any cattle, horses, sheep or hogs thereon; and when such fences and guards shall have been duly made, and shall be kept in good repair, such lessee shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this section; but no lessees of a railroad corporation shall be required to fence the sides of said roads except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad, from the lands adjoining the same.

Drinking water to be kept in cars; where main route of road does not exceed twenty miles board of directors may consist of seven of its stockholders.

§ 3. Every railroad company whose line of road shall exceed forty continuous miles in length shall, for the better comfort of passengers, provide in each passenger car a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and shall keep the said receptacle while said car is in use constantly supplied with cool water; and any company failing to obey the provision of this section shall, for each offense of omission as aforesaid, forfeit as a penalty the sum of \$25; one-half of said penalty to be paid to the informer, and the remaining one-half to the overseer of the poor of the county in which judgment shall have been recovered, and any railroad company whose main route of road does not exceed twenty miles may have a board of directors to manage its affairs, consisting of seven of its stockholders, to be chosen in the manner provided by law. (*Thus amended by chap. 46, Laws of 1883.*)

(The remaining sections of this act amend the General Railroad Act.)

CHAP. 844, LAWS OF 1869.

AN ACT to amend an act entitled "An act in relation to railroads held under lease," passed April 3, 1867.

Report to State Engineer.

SECTION 1. Any railroad corporation which may be the lessee of any other railroad shall, in addition to the powers and duties conferred and

imposed by the act entitled "An act in relation to railroads held under lease," passed April 3, 1867, be required to make to the State Engineer a report of such facts concerning the operation of said leased road or roads as the lessors would otherwise be required to make, and the lessors shall not be required to make such report.

CHAP. 502, LAWS OF 1853.

AN ACT to authorize stockholders of railroad and plankroad companies to make payments upon mortgages in process of foreclosure against such companies, and thereupon to become interested in said mortgages.

Default in payment of principal and interest of bonds.

SECTION 1. Whenever default shall be made by any railroad or plankroad company in the payment of principal or interest of any bonds of such company, which are secured by a mortgage of the property of such company, it shall be lawful for each and every stockholder of said company, at any time during the process of such foreclosure, to pay to the mortgagees named in such mortgage, for the use and benefit of the holder and holders of such bonds, such a proportion of the sum due and of the sum secured to be paid by the whole of the bonds secured by such mortgage as such stockholder's stock shall bear to the whole stock of said company; and on so paying, such stockholder shall, to the extent of such payment, become and be interested in said mortgage and protected thereby.

Foreclosure of mortgage.

§ 2. In case of the foreclosure of any mortgage given by any railroad or plankroad company to secure the payment of any bond of such company, any stockholder of such company shall, for the period of six months after the sale under such foreclosure, have the right on paying to the purchaser or purchasers at or under such sale, or to the mortgagees named in such mortgage, for the use and benefit of said purchaser or purchasers, a sum equal to such proportion of the price paid on such sale, and the costs and expenses thereof, as such stockholder's stock in said company shall bear to the whole capital stock of said company; and on so paying, such stockholder shall be entitled to have the same relative amount of stock or interest in said railroad or plankroad company and its road, franchises and other property.

CHAP. 444, LAWS OF 1857.

AN ACT further to amend the act entitled "An act to authorize the formation of railroad corporations. and to regulate the same," passed April 2, 1850.

Mortgage sales.

SECTION 1. It shall be lawful for any mortgagee of any railroad and the franchise thereof to become the purchaser of the same, at any sale thereof under the mortgage upon foreclosure by advertisement, or under a judgment or decree, or otherwise, and to hold and convey the same, with all the rights and privileges belonging thereto or connected therewith.

Special estates, how acquired.

§ 2. Whenever there shall be one or more of the estates enumerated in article 1 of title 2 of chapter 1 of the second part of the Revised Statutes, entitled "Of the creation and division of estates," in any land required by any railroad company for the purpose of its incorporation, such company may acquire such estate and land by means of the special proceedings authorized by the act hereby amended. In every such case the railroad company, in addition to the statements now required by said act, shall

set forth and state in its petition the facts in relation to any such estate, and the person, persons or class of persons, then in being or not in being, who are or may become entitled, in any contingency, to any estate as aforesaid in such land, and may pray that such estate may be acquired, and such person may be bound by the said proceedings; and thereupon the court to whom such petition is presented, if there be no attorney appearing in their behalf, shall appoint some competent and disinterested attorney or officer of the court to appear in such proceedings and represent the rights, interests and estate of the person, persons or class of persons aforesaid in any such land, and to protect the same, on the appraisal and proceedings aforesaid; and it shall be the duty of the court, on or after the confirmation of the report of the appraisal, to ascertain by such report, or by a reference for that purpose, or otherwise in its discretion, the rights, interests and estate of such person, persons or class of persons, in the land so appraised, and in the compensation awarded therefor, and to make an order determining the amount or share of such compensation to which such person, persons or class of persons are, or may become, entitled on account of such estate, as the same shall arise or become vested in them respectively, and to direct, and to provide for the payment, investment or securing thereof, for the benefit of the person, persons or class of persons aforesaid, who are, or may in the contingency upon which such estate arises, become entitled thereto; upon the company paying or securing such amount or share, in the manner directed by such order of the court, it shall be deemed to have acquired, and shall be vested with the estate which such person, persons or class of persons have, or may be entitled to in said land, and they shall be barred of and from all right or claim in and to such land. Any railroad corporation in this State may acquire the title in fee, by the special proceedings hereinbefore mentioned, to any land which it may require for roadway and for necessary buildings, depots and freight grounds.

Sale of unclaimed baggage and freight authorized; notice of sale to be published; money arising therefrom to be deposited with Comptroller; notice of sale must be served on Comptroller.

§ 3. Every railroad or other transportation company incorporated under the laws of this or any other State, and doing business within this State, which shall have unclaimed freight or baggage not perishable, in its possession for the period of at least one year, may proceed and sell the same at public auction, after giving notice to that effect in the State paper once a week for not less than four weeks, and for a like period in a newspaper other than the State paper published at the place designated for the sale, and also in one published in the city of New York (said notice shall contain as near as practicable, a description of such freight or baggage, the place and time when left, together with the name of the owner of the freight, or person to whom consigned, if the same be known). All moneys arising from the sale of freight or baggage as aforesaid, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and the amount previously paid for the loss or non-delivery of freight or baggage, shall be deposited by the company making such sale, accompanied with a report thereof, and proofs of advertisement, with the Comptroller, for the benefit of the general fund of the State, and shall be held by him in trust for reclamation by the persons entitled, or who may become entitled, to receive the same. No sale as herein provided shall be valid unless a copy of the notice above specified shall be served upon the Comptroller for at least two weeks prior to the time designated for such sale. (*Thus amended, chap. 444, Laws 1884.*)

Disposition of unclaimed baggage and perishable freight.

§ 4. In case such unclaimed freight or baggage shall, in its nature, be perishable, then the same may be sold as soon as it can be at the best terms that can be obtained.

CHAP. 430, LAWS OF 1874.

AN ACT to facilitate the reorganization of railroads sold under mortgage, and providing for the formation of new companies in such cases.

Purchasers to become a body politic and corporate by making and filing certificate.

SECTION 1. In case the railroad and property connected therewith, and the rights, privileges and franchises of any corporation, except a street railroad company, created under the general railroad law of this State, or existing under any special or general act or acts of the Legislature thereof, shall be sold under or pursuant to the judgment or decree of any court of competent jurisdiction made or given to execute the provisions or enforce the lien of any deed or deeds of trust, or mortgage theretofore executed by any such company, the purchasers of such railroad property and franchises, and such persons as they may associate with themselves, their grantees or assignees, or a majority of them, may become a body politic and corporate, and as such may take, hold and possess the title and property included in said sale, and shall have all the franchises, rights, powers, privileges and immunities which were possessed before such sale by the corporation whose property shall have been sold as aforesaid, by and upon filing in the office of the Secretary of State a certificate, duly executed under their hands and seals, and acknowledged before an officer authorized to take the acknowledgment of deeds, in which certificate the said persons shall describe, by name and reference to the act or acts of the Legislature of this State under which it was organized, the corporation whose property and franchises they shall have acquired as aforesaid, and also the court by authority of which such sale shall have been made, giving the date of the judgment or decree thereof, authorizing or directing the same, together with a brief description of the property sold, and shall also set forth the following particulars:

Name of corporation.

1. The name of the new corporation intended to be formed by the filing of such certificate.

Capital stock.

2. The maximum amount of its capital stock and the number of shares into which the same is to be divided, specifying how much of the same shall be common, and how much preferred stock, and the classes thereof, and the rights pertaining to each class.

Number of directors.

3. The number of directors by whom the affairs of the said new corporation are to be managed, and the names and residences of the persons selected to act as directors for the first year after its organization.

Plans and agreements; effect of certificate; copy thereof, evidence; certificate to contain whole plan.

4. Any plan or agreement which may have been entered into pursuant to the second section hereof.

And upon the due execution of such certificate, and the filing of the same in the office of the Secretary of State, the persons executing such certificate, and who shall have acquired the title to the property and franchises sold as aforesaid, their associates, successors and assigns, shall become and be a body politic and corporate, by the name specified in such certificate, and shall become and be vested with, and entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to or were vested in the corporation which last owned the property so sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and of the acts amendatory thereof, except so far as said pro-

visions, duties and liabilities may be inconsistent herewith, and with the last named rights, privileges or franchises; and a copy of the said certificate, certified by the Secretary of State or his deputy, shall be presumptive evidence of the due formation of the new corporation therein mentioned, provided always that a majority of said persons shall be citizens and residents of this State. In the certificate so to be filed shall be inserted the whole of the plan or agreement in the next section referred to. And such plan, agreement and articles may regulate voting by and on the part of the holders of the preferred and common stock of the said company, and may also allow, provide for and regulate voting at and in said meetings, and also for directors, by and on the part of the holders and owners of any or all of the bonds of the company foreclosed, or of the bonds issued or to be issued and payable by the new company, pursuant to any such plan, agreement or articles; such right of voting by bondholders to be in such manner, for such period or periods, and upon such conditions as said articles may authorize and declare; but such articles shall contain suitable provisions for such bondholders voting by proxy. Said articles shall not be inconsistent with the constitution or laws of this State, and shall be binding upon the company until changed as therein provided for, or until otherwise provided by law. (*Thus amended, Laws of 1876, chap. 446.*)

When new corporation may issue bonds and stock; when it may compromise, etc., debt of former company; preferences in dividends.

§ 2. In case the persons organizing, or whose duty it may be to organize the new corporation to be formed as provided in the first section of this act, shall have acquired title to the railroad property and franchises which may have been sold as in said section mentioned, pursuant to any plan or agreement for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the company owning, or which last owned, such property and franchises at the time of any such sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, as provided for in said section, the said new corporation shall be authorized and shall have the power to issue its bonds and stock in conformity with the provisions of such plan or agreement; and the said new corporation may, at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former company, upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of reorganization aforesaid; and for the purposes of such plans and of such settlements, the said new corporation may and shall be authorized to establish preferences in respect to the payment of dividends in favor of any portion of its said capital stock, and to divide its said stock into classes; provided, nevertheless, that nothing herein contained shall be held to authorize the issue of capital stock by the said new company to any aggregate amount exceeding the maximum amount of such stock mentioned in the certificate of incorporation.

Sale of property.

1. And it shall be lawful for the Supreme Court to direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in the case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any mortgage or mortgages or deeds aforesaid.

No interference with receiver by sale or formation of new company.

2. Neither the said sale nor the formation of such corporation shall interfere with the authority or possession of any receiver of the property and franchises aforesaid, but he shall remain liable to be removed or discharged at such time as the court may deem proper.

Suits against receiver.

3. No suit or proceeding shall be commenced against said receiver (unless founded on willful misconduct or fraud in his trust), except such as shall be commenced before the expiration of sixty days from the time

of the discharge of such receiver; but it is further provided, that after the expiration of said sixty days, the corporation that shall own or operate said railroad shall be liable in any action that may be commenced against such company, and founded on any act or omission of such receiver (for which he may not as aforesaid be sued), and to the same extent as said receiver, but for this act, would be or remain liable, or to the same extent that such corporation would be, had it done or omitted the acts complained of against such receiver. (*Thus amended, Laws of 1876 chap. 446.*)

Stockholder of company has the right to assent to plans of readjustment.

§ 3. Every stockholder in any company, the franchises and property whereof shall have been sold as aforesaid, shall have the right to assent to the plan of readjustment and reorganization of interests pursuant to which such franchises and property shall have been purchased as aforesaid at any time within six months after the organization of said new company, and by complying with the terms and conditions of such plan become entitled to his *pro rata* benefits therein according to its terms.

Railroad commissioners of any city, etc., may assent to plan of reorganization; issue of stock in exchange for stock of former company; may assign, etc., stock held by them.

§ 4. Full power is hereby given to the railroad commissioners, corporate authorities or proper officials of any city, town or village, who may hold stock in any corporation, the property and franchises whereof shall be liable to be sold, as mentioned in the first section of this act, to assent to any plan or agreement of reorganization which provides for the formation of a new company, in conformity with this act, and the issue of stock therein to the proper authorities or officials of said cities, towns or villages, in exchange for the stock of the old or former company by them respectively held at par, subject to the foregoing provisions of this act. And such railroad commissioners, corporate authorities or other proper officials, may assign, transfer or surrender the stock so held by them in the manner required by any such plan, and accept in lieu thereof the stock issued by said new corporation in conformity therewith.

Provisions affecting extension of railroads: powers of board of railroad commissioners in relation thereto.

§ 5. Nothing herein contained shall be construed to compel a corporation organized under this act to extend its road beyond the portion thereof constructed at the time said corporation acquired title to such railroad property and franchise, provided the board of railroad commissioners of the State shall certify that in their opinion the public interests under all the circumstances do not require such extension. If said board shall so certify and shall file in their office such certificate (which certificate shall be irreversible by said board) said corporation shall not be deemed to have incurred any obligation so to extend its road and such certificate shall be a bar to any proceedings to compel it to make such extension or to annul its existence for failure so to do, and shall be final and conclusive in all courts and proceedings whatever. Nothing herein contained shall be construed to authorize the abandonment of that portion of a railroad which has been constructed and operated.

(Section 5 added by Laws of 1889, chap. 236. Provisions of this section not applicable to Kings county.)

CHAP. 505, LAWS OF 1879

AN ACT to facilitate the foreclosure of mortgages made by consolidated railroad companies of railroads lying partly within and partly without this State.

Foreclosure of mortgages made by consolidated railroads lying only partly in the State.

SECTION 1. Whenever a railroad corporation, whose line of road lies partly in this State and partly in another State or States, which corporation shall have been created by the consolidation of a railroad corporation of this State with a railroad corporation or corporations of another State or States, shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the State or States in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the Supreme Court of this State in the judicial district in which some part of such line of road is situated, such sale shall operate to pass title to the purchaser of that part of the line of railroad lying in this State, together with its appurtenances and franchises, with the same force and effect as if the judgment or decree under which such sale is had had been made by a court of competent jurisdiction of this State. Such judgment or decree and sale may be so confirmed in any action now pending, or that may hereafter be brought in the said Supreme Court for the foreclosure of such mortgage or in aid of an action for that purpose pending in such other State, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line of road or other property sold situate in this State, and for such costs, expenses and charges as may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be, appointed by such court of competent jurisdiction of the State in which the greater part of the line of railroad is situated, such receiver may perform, within this State, the duties of his office not inconsistent with the laws of this State, and may sue and be sued in the courts of this State.

Powers of corporations of other States, subject to certain duties and liabilities; proviso.

§ 2. A corporation created under the laws of the State in which the greater part of the line of such railroad may be situated, for the purpose of taking title to and operating the entire line of railroad so sold, as provided in the preceding section, with its franchises and appurtenances, the judgment, decree and sale having been duly confirmed and approved, as therein provided, may hold, possess and operate that part of the line of such railroad lying in this State, and shall have all the rights and franchises theretofore possessed by the corporation executing the mortgage under which such judgment or decree and sale was made, and such as now are or may hereafter be conferred upon railroad corporations organized under the laws of this State, and shall be subject to the duties and liabilities to which such corporation was by the laws of this State subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this State; provided that an exemplified copy of the charter, certificate of incorporation or articles of association under and by virtue of which such corporation is created, and of the judgment or decree under which said entire line of railroad was sold and a

certified copy of the order or judgment or decree of confirmation and approval required by the preceding section, shall be filed in the office of the Secretary of State for this State.

CHAP. 5, LAWS OF 1880.

AN ACT to authorize the president, treasurer and secretary of any railroad company to issue certificates of stock in certain cases, after a foreclosure and sale of the property and franchises of the corporation.

When president, etc., to issue certificates of stock.

SECTION 1. The president, treasurer, and secretary of any railroad company organized under the laws of this State or either of them, whose property and franchises have been sold under a foreclosure of any mortgage given to secure the payment of any bond or bonds issued by such company, are hereby authorized and required after such foreclosure and sale upon demand of any individual, or any duly authorized officers of any corporation, town, county or city, entitled thereto, to issue certificates of stock in said railroad company, provided, when any such individual or the proper officers of any corporation, county, town or city duly authorized so to do have subscribed to the stock of such railroad company, and paid the amount of such subscription to the officers of such railroad company, either in money or bonds, before the date of such foreclosure and sale, and a certificate of stock through the neglect of such railroad company or of any individual or the officers of any town, county, city or corporation has not been issued and delivered to said subscriber or the officers of any corporation, town, county or city for the amount of money or both so subscribed and paid.

Effect of certificate.

§ 2. All certificates of stock issued under the authority of the first section of this act shall have all the force and effect, and shall give the holder all the rights which would pertain thereto as if said stock had been issued at the date and payment of the subscription thereto.

CHAP. 606, LAWS OF 1875.

AN ACT further to provide for the construction and operation of a steam railway or railways in counties of the State.

Application for railway commissioners; appointment of; railways in cities.

SECTION 1. Whenever it shall appear, by the application of fifty reputable householders and taxpayers of any county in this State, verified upon oath before a justice of the Supreme Court, that there is need in such county of a steam railway or railways for the transportation of passengers, mails or freight, the board of supervisors of said county may, within thirty days after the presentation to them of such application, duly verified as aforesaid, appoint five commissioners, who shall be residents of the said county, and who shall have full power and authority to do and provide all that they are hereinafter directed to do and provide, and a certificate of whose appointment, signed by the chairman and clerk of said board, shall be filed in the office of the

Secretary of State, and a duplicate thereof in the office of the clerk of such county. But whenever any such proposed railway shall be wholly within the limits of any city in the State, then such application shall be made only to the mayor of said city, and such mayor shall appoint such commissioners as aforesaid.

Commissioners to take oath and give bond.

§ 2. Within ten days after their appointment, each of said commissioners shall take and subscribe an oath faithfully to perform the duties of his office, the said oath to be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county, and shall give a bond to the people of the State of New York in the penal sum of \$25,000, conditioned for the faithful performance of the duties required by this act, which bond shall have two or more sureties, to be approved by a justice of the department of the Supreme Court including such county, and shall be filed in said clerk's office before said commissioner shall assume or perform any of the duties of his office.

First meeting of commissioners.

§ 3. Within fifteen days after their appointment, the said commissioners shall meet at some convenient place in such county, and organize themselves as a board with appropriate officers.

Commissioners to determine upon the necessity of railroads; exception; proviso.

§ 4. Said commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railway or railways, and if they find such railway or railways to be necessary in such county, they shall, within sixty days after such organization, fix and determine the route or routes for such steam railway or railways, and the said commissioners shall have the exclusive power to locate the route or routes of such railway or railways over, under, through or across the streets, avenues, or land in such county, except Broadway and Fifth avenue below Fifty-ninth street, Fourth avenue and Forty-second street, in the city of New York, and except over, under, through or across those portions of Grand, Classon and Franklin avenues and Downing street in the city of Brooklyn, lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, and over, under, through or across that portion of Classon avenue, in said city, lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and over, under, through or across that portion of Washington avenue in said city lying between Park and Atlantic avenues, and except over, under, through or across DeBevois place, Irving place and Leffert's place in said city of Brooklyn; and except such portions of streets and avenues as are already legally authorized for or occupied by an elevated or underground railway, and except such as are contained in public parks or occupied by buildings belonging to such county, or to this State, or to the United States, and except that portion of the city of Buffalo lying between Michigan and Main streets; and to provide for the connection or junction with any other railway or bridge, provided that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners appointed by the general term of the Supreme Court in the district of the proposed construction, given after due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners. But nothing

herein contained shall prevent the construction of an elevated railway across any excepted streets, places, and avenues in the city of Brooklyn at their intersection only with other streets, places and avenues. (*Thus amended, Laws of 1881, chap. 485.*)

(See in this connection Laws of 1880, chap. 10; also, Laws of 1879, chap. 529.)

Plans of construction.

§ 5. The said commissioners having, by such public notice as they may deem most proper and effective, under such conditions and with such inducements as to them may seem most expedient, invited the submission of plans for the construction and operation of such railway or railways, the said commissioners shall meet at a place and upon a day in such public notice named, not more than ninety days after their organization, and decide upon the plan or plans for the construction of such railway or railways, with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances upon the route or routes, and in the location determined by them.

Commissioners to determine when railway to be built; rates of fare; appraisal of damages; before corporation enters upon street certain moneys to be deposited; additional deposit required; proviso.

§ 6. The said commissioners shall, within the like period of ninety days after their organization, fix and determine the time within which such railway or railways or portions of the same, shall be constructed and ready for operation, together with the maximum rates to be paid for transportation and conveyance over such railway or railways, and the hours during which special cars or trains shall be run at reduced rates of fares. The said commissioners shall also, within the like period of ninety days after their organization, fix and determine the amount of the capital stock of the company to be formed for the purpose of constructing, maintaining and operating such railway or railways for public use in the conveyance of persons and property, the number of shares into which such capital stock shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares. *The said commissioners shall also, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damage arising from the diminution in value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway or railways, to be caused by the construction, maintenance and operation thereof. For the purpose of ascertaining such aggregate pecuniary damage the said commissioners shall view the several parcels of real estate bounded as aforesaid, and shall appraise separately the pecuniary damage arising from the diminution in value of each parcel thereof to be caused as aforesaid, and for the purposes of such appraisal they "shall give notice of the time and place when and where they will meet to hear the owners, or persons interested in the said several parcels of real estate bounded as aforesaid, which notice shall be published for at least ten days consecutively in at least two newspapers published in the county where such railway is to be constructed, and may in their discretion take testimony upon the probable diminution in value of any or all such parcels to be caused as aforesaid, and the aggregate sum of the amounts so appraised and determined by said commissioners shall be the aggregate pecuniary damage required to be ascertained and determined by said commissioners as above pro-

*The following part of section 6 is not applicable to the counties of New York and Westchester. § 5, chap. 393, Laws of 1882.

vided. And no corporation which shall hereafter be organized under this act shall enter upon any street, highway or lane of any city or county of this State, or become vested, either directly or indirectly, whether by implication or otherwise, with any right, privilege or franchise in any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway, or by the board of supervisors, when the road does not lie wholly within the city, a sum of money equal to the amount so ascertained and determined as aforesaid by said commissioners to be the aggregate pecuniary damage to the property, bounded as aforesaid, or shall have secured the payment of such amount by depositing with the said trust company negotiable securities, equivalent to their par and actual value to the aggregate amount aforesaid, and approved either by the county treasurer, or, in case the said commissioners shall have been appointed by the mayor of a city, then by the said mayor. And the said corporation shall also at the same time deposit with the said trust company, or with the county treasurer, the sum of \$5,000 in cash, for the payment of the expense of apportioning and distributing the aforesaid fund; and unless such moneys or securities as aforesaid shall be deposited by such corporation within one year after it shall have obtained the consent of the local authorities, and of the property owners, or of the confirmation by the general term of the Supreme Court of the determination of three commissioners, appointed by said court, as required by the fourth section of this act, and in the case of a company heretofore organized within one year after it shall have obtained confirmation by the general term of the Supreme Court of the report of three commissioners appointed by said court, in lieu of the consent of property owners, or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this act shall have made their report, then and in such case the said corporation shall be deemed not to have accepted the franchises duly granted.

Provided, however, that in all cases where the said commissioners shall fix and determine different periods of time within which different sections of said railway shall be constructed and ready for operation, they shall ascertain, determine and report separately the aggregate pecuniary damage to property bounded upon that portion of said street or streets upon which each of such sections is located; and upon the deposit by said corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections of said railway, said corporation shall immediately be vested with the right and privilege to construct its railway through such section. (*So amended, Laws of 1882, chap. 393.*)

Articles of association; proviso as to forfeiture.

§7. The said commissioners shall prepare appropriate articles of association for the company in the last section mentioned, in which said articles of association shall be set forth, and embodied, as component parts thereof, the several conditions, requirements and particulars by said commissioners determined pursuant to sections 4, 5 and 6 of this act, and which further shall provide for the release and forfeiture to the supervisors of the county of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided; and the said commissioners shall thereupon and within one hundred and twenty days after the organization as aforesaid, cause a suitable book of subscription to the capital stock of such company to be opened, pursuant to due public notice, at a banking office in such county.

*Provided, however, that a failure by any corporation heretofore or here-

* The following proviso is not applicable to the counties of New York and Westchester.
§5, chap. 393, Laws of 1882.

after organized under this act to complete its railway within the time limited in and by its articles of association shall work a forfeiture of the franchises of such corporation only with respect to that portion of its route which such corporation shall have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its articles of association, or as to which the time for completion shall not have expired, any thing contained in the articles of association of such corporation to the contrary hereof in any wise notwithstanding. (*Thus amended by Laws of 1882, chap. 393.*)

Organization.

§ 8. Whenever the whole capital stock of such company, or an amount of such capital stock proportioned to the part of such railway or railways directed by said commissioners to be first constructed, shall have been subscribed by not less than twenty-five persons, and the fixed percentage of such subscriptions shall have been paid in cash, the said commissioners shall, by written or printed notice of ten days, served personally, or by mail, call a meeting of such subscribers for organization. At such meeting or at any subsequent one to which the same may be adjourned, a majority in number and amount of said subscribers may elect persons, of a number to be theretofore determined by said commissioners, who shall be directors for one year of the corporation formed for the purpose of constructing and operating said railway or railways.

Commissioners to deliver certificate; affidavit of directors; filing of certificate; corporation, when perfected.

§ 9. Within ten days after the election of said directors, said commissioners shall deliver to said directors a certificate in duplicate, verified by the oath of three commissioners before a justice of the Supreme Court, setting forth the said articles of association and the organization of the company for the purposes in this act mentioned and provided for; and within five days after the reception by them of such certificate, three of the directors so elected shall make affidavit, in duplicate, that the full amount of stock has been subscribed in good faith, and the prescribed per centage paid in cash thereon, and that it is intended, in good faith, to construct, maintain and operate the railway or railways in such articles of association mentioned, and the said directors shall file said certificates and articles in the office of the Secretary of State, and a duplicate of the same in the office of the clerk of the county wherein such railway or railways shall be located, and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the duties and restrictions of corporations. A copy of such certificate and affidavit, certified to be a copy by the Secretary of this State, or his deputy, shall be presumptive evidence of the incorporation of such company and of the facts therein stated.

Directors' books, when to be exhibited.

§ 10. Said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. Every corporation formed under this act shall be subject to the regulations concerning the election of directors of moneyed corporations, contained in article second of the second title of the eighteenth chapter of the first part of the Revised Statutes. The inspectors of the first election of directors shall be appointed by the commissioners. No person shall be a director unless he shall be a stockholder owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books

and papers of such company shall be exhibited to the meeting, provided a majority of the stockholders present shall require it. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

Payment of subscriptions to stock.

§ 11. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, postage prepaid, properly directed to him at the postoffice nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock, and all previous payments thereon, will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

Liability of stockholder, to creditors, laborers and servants other than contractors; when suit be brought.

§ 12. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself.

Stock deemed personal estate; how and when transferable.

§ 13. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

Increase of capital stock

§ 14. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders in the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded

*So in original.

and directed to him at the post-office nearest his usual place of residence, in the post-office, postage prepaid, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

Stock held in trust.

§ 15. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

Liability to laborers.

§ 16. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer or his attorney; and shall be served on an engineer, agent or superintendent employed by such company having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided.

Real estate.

§ 17. Every such corporation shall have the right to acquire and hold such real estate, or interest therein, as may be necessary to enable them to construct, maintain and operate the said railway or railways, and such as may be necessary for stations, depots, engine-houses, car-houses and machine shops; and, in case any such corporation cannot agree with the owner or owners of any such real estate, or of any interest therein, it shall have the right to acquire title to the same in the manner and by the special proceedings prescribed in this act.

Title, how acquired; petition, what to contain; how and when served.

§ 18. For the purpose of acquiring said title the said company may present a petition praying for the appointment of commissioners of appraisal to the Supreme Court, at any general or special term thereof, held in the judicial district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a description of the real estate which the company seeks to acquire; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith, to construct and finish a railroad from and to the places named for that purpose in its articles of association; that the whole capital stock of the company has been, in good

faith, subscribed as required by this act; that the land described in the petition is required for the purpose of constructing or operating the proposed road; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can, by reasonable diligence, be ascertained, who own or have, or claim to own or have, estates or interests in the said real estate; and, if any such persons are infants, their ages, as near as may be, must be stated; and if any of such persons are idiots or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens and incumbrances on said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the Supreme Court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

1. If the person on whom such service is to be made resides in this State and is not an infant, idiot or person of unsound mind, service of a copy of such petition and notice must be made on him or his agent or attorney, authorized to contract for the sale of the real estate described in the petition, personally, or by leaving the same at the usual place of residence of the person on whom service must be made as aforesaid, with some person of suitable age.

2. If the person on whom such service is to be made resides out of the State, and has an agent residing in this State, authorized to contract for the sale of the real estate described in the petition, such service may be made on such agent, or on such person personally out of the State; or it may be made by publishing the notice, stating briefly the object of the application, and giving a description of the land to be taken, in a paper published in the city of Albany, and in a paper printed in the county in which the land to be taken is situated, once in each week, for the month next previous to the presentation of the petition. And if the residence of such person residing out of this State, but in any of the United States, or in any of the British colonies in North America, is known, or can by reasonable diligence be ascertained, the company must, in addition to such publication as aforesaid, deposit a copy of the petition and notice in the post-office, properly folded and directed to such person at the post-office nearest his place of residence, at least thirty days before presenting such petition to the court, and pay the postage chargeable thereon in the United States.

3. If any person on whom such service is to be made is under the age of twenty-one years, and resides in this State, such service shall be made as aforesaid on his general guardian; or if he has no such guardian, then on such infant personally, if he is over the age of fourteen years; and if under that age, then on the person who has the care of, or with whom such infant resides.

4. If the person on whom such service is to be made is an idiot, or of unsound mind, and resides in this State, such service may be made on the committee of his person or estate; or if he has no such committee, then on the person who has the care and charge of such idiot or person of unsound mind.

5. If the person on whom such service is to be made is unknown, or his residence is unknown, and can not by reasonable diligence be ascertained, then such service may be made, under the direction of the court, by publishing a notice, stating the time and place the petition will be presented, the object thereof, with a description of the land to be affected by the proceedings, in a paper published in the city of Albany, and in a paper printed in the county where the land is situated, once in each week for one month previous to the presentation of such petition.

6. In case any party to be affected by the proceedings is an infant, idiot or of unsound mind, and has no general guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such person in the proceedings; but if a general guardian or committee has been appointed for such person in this State, it shall be the duty of such general guardian or committee to attend to the interests of such infant, idiot or person of unsound mind; and the court may require such security to be given by such general or special guardian or committee as

it may deem necessary to protect the rights of such infant, idiot or person of unsound mind; and all notices required to be served in the progress of the proceedings may be served on such general or special guardian or committee.

7. In all cases not herein otherwise provided for, service of orders, notices and other papers in the special proceedings authorized by this act, may be made as the Supreme Court shall direct. In all cases of appraisal under this act, where the mode or manner of conducting all or any of the proceedings to the appraisal and the proceedings consequent thereon, are not expressly provided for by the statute, the courts before whom such proceedings may be pending, shall have the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this act; and the practice in such cases shall conform, as near as may be, to the ordinary practice in such courts. When any proceedings of appraisal shall have been commenced, no change of ownership by conveyance or transfer of the real estate or any interest therein, or of the subject matter of the appraisal, shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made or attempted to be made. (*Thus amended, Laws of 1888, chap. 514.*)

Commissioners to be appointed.

§ 19. On presenting such petition to the Supreme Court as aforesaid, with proof of service of a copy thereof, and notice as aforesaid, all persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition, and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of five disinterested and competent persons, who reside in the county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company, and to fix the time and place for the first meeting of such commissioners.

Proceedings of commissioners.

§ 20. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any one of them may issue subpoenas, administer oaths to witnesses, and any three of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet, except by the appointment of the court, or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties who are to be affected by their proceedings, or their attorney or agent. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed in each case, and without any unnecessary delay, and before proceeding to the examination of any other claim, a majority of them, all being present and acting, shall ascertain and determine the compensation which ought justly to be made by the company to the party or parties owning or interested in the real estate appraised by them; and in determining the amount of such compensation, they shall not make an allowance or deduction on account of any real or supposed benefits which the party in interest may derive from the construction of the proposed railroad. They, or a majority of them, shall also determine and certify what sum ought to be paid to a general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interest of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared, for costs, expenses and counsel fees. They shall make a report to the Supreme Court, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to \$3 for their expenses and services for each day they are engaged in the performance of their duties, to be paid by the company.

Confirmation of report; proceedings thereon.

§ 21. On such report being made by said commissioners, the company shall give notice to the parties, or their attorneys, to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report; and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

Order to be recorded; company to have title on payment of award, etc.; appeals.

§ 22. A certified copy of the order so to be made, as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated; and thereupon, and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses, and counsel fees aforesaid, and as directed by said order, with interest from the date thereof, the company shall be entitled to enter upon, take possession of and use the said land for the purpose of its incorporation, during the continuance of its corporate existence, by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate, and interest in such real estate, during the corporate existence of the company as aforesaid. If the company shall neglect to have such order recorded, and to make the payment or deposit as herein provided, for the period of ten days after the date of such order, any party to such proceedings and interested therein may at his election, cause a certified copy of the said order to be recorded as aforesaid, and thereupon the moneys therein directed to be paid, with interest thereon from the date of said order, shall be a debt against the company, and the same shall be a lien on such real estate, and may be enforced and collected by action at law or in equity in the Supreme Court, with costs. All real estate acquired by any company under and pursuant to the provisions of this act, for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the twenty-first section of this act, either party may appeal, by notice in writing to the other, to the Supreme Court, from the appraisal and report of the commissioners. Such appeal shall be heard by the Supreme Court, at any general or special term thereof, on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal, the court may direct a new appraisal, before the same or new commissioners, in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of compensation to be made by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct; and if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid; and judgment therefor may be rendered by the court, on the filing of the second report, against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised; and when the same is made by others than the company, it shall not be heard, except on a stipulation of the party appealing not to disturb such possession.

Proceedings where there are conflicting claimants.

§ 23. If there are adverse and conflicting claimants to the money or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made. The court shall appoint some competent attorney to appear for, and protect the

rights of any party in interest who is unknown or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary; or to cause new parties to be added, and to direct such further notices to be given to any party in interest, as it deems proper; and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Where title is defective.

§ 24. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title, in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession, and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.

When title to real estate is vested in trustee.

§ 25. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot, or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed, shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

Powers.

§ 26. Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

2. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

3. To cross, intersect, join and unite its railroad with any other railroad before constructed at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections. And every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new

railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor or the points and manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed by the court, as is provided in this act in respect to acquiring title to real estate.

4. To take and convey persons and property on their railroad by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use, in accordance with the plan adopted by said commissioners, a railway or railways upon the route or routes and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the said commissioners and for operating the same; except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway now in actual operation at the grade thereof, or the erection of piers or supports for any elevated railway upon a railway track now actually in use in any street or avenue; and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surface of said streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and shall avoid any interference with or change in the water-mains, or in the sewers or lamp-posts, except such changes as may be made with the concurrence of the proper department or authority; and in all cases the use of the streets, avenues, places and lands designated by the said commissioners, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared, to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said company, at any time not exceeding ten years from the date of the bond, under such regulations as the directors may see fit to adopt.

Employees to wear badge; effect of not wearing badge.

§ 27. Every conductor, baggage-master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant, without such badge, shall have authority to meddle or interfere with any passenger, his baggage or property.

To convey mails.

§ 28. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads

respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the Governor of this State to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid.

Ejection of passengers.

§ 29. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping-place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

To run trains at regular times, and to furnish sufficient accommodation.

§ 30. Every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property, as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junctions of other railroads, and at usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor; and shall be liable to the party aggrieved, in an action for damages, for any neglect or refusal in the premises.

Intoxication of employees.

§ 31. If any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

Willful injury to property.

§ 32. If any person or persons shall willfully do, or cause to be done, any acts or act whatever, whereby any building, construction or work of any railroad corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offense.

Penalties, how recovered.

§ 33. All penalties imposed by this act may be sued for in the name of the people of the State of New York; and if such penalty be for a sum not exceeding \$100, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

Legislature may dissolve company.

§ 34. The Legislature may, at any time, annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

Where route crosses horse railroad track.

§ 35. Whenever the route selected by the said commissioners for the construction of said railway shall intersect, cross or coincide with any horse railway track occupying the surface of said streets or avenues, the said railway corporation is hereby authorized to remove, for the purpose of constructing the said work, the tracks of said horse railways; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of said railway, where such removals or changes have been made, the same shall be restored, as near as may be, to the condition in which they were previous to the construction of said railroad. All such removals and restorations shall be made at the proper cost and charges of the said corporation. Nothing contained in this act shall authorize any corporation formed thereunder to use the tracks of any horse railway.

Where route coincides with another route; elevated railways.

§ 36. Whenever the route or routes determined upon by said commissioners coincide with the route or routes covered by the charter of an existing corporation formed for the purpose provided for by this act, provided that said corporation has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time prescribed by its charter, such corporation shall have the like power to construct and operate such railway or railways, upon fulfillment of the requirements and conditions imposed by said commissioners as a corporation specially formed under this act; and the said commissioners may fix and determine the route or routes by which any elevated steam railway or railways now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries; upon fulfillment by such elevated steam railway company, so far as it relates to such connection, of such of the requirements and conditions imposed by said commissioners under section 4 of this act, as are necessary to be fulfilled in such cases, under section 18 of article 3 of the Constitution of this State, and such connecting elevated railway shall in such case possess all the powers conferred by section 26 of this act; and when any connecting route or routes shall be so designated, such elevated railway company may construct such connection, with all the rights, and with like effect, as though the same had been a part of the original route of such railway.

Commissioners to transfer plans, etc., to corporation.

§ 37. Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the said commissioners shall transfer and deliver to the said corporation all plans, specifications, drawings, maps, books and papers in their possession. And the said commissioners shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this act, after deducting therefrom the necessary expenses incurred by said commissioners and the amounts due or to accrue to them for their salaries.

Pay of commissioners.

§ 38. Each of said commissioners shall be paid for his services at the rate of \$10 per day for each day of actual service as such commissioner, to be paid by such corporation; but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the said commissioner shall receive no salary, and shall cause to be returned to the subscribers for said stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by said commissioners; provided, however, that the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period or time limited in this act.

Commissioners; relating to; duties of, etc.

§ 39. A majority of the members of any board of commissioners appointed under this act shall be deemed and considered sufficient for the

transaction of any business, or for the performance of any of the duties or functions, or the exercise of any of the powers, hereby conferred or enjoined upon such commissioners. Either of said commissioners may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity of being heard in defense; and no commissioner thus removed is or shall be eligible to be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any commissioner appointed under this act, the vacancy shall be filled, by the power appointing him, within thirty days after such removal, or within thirty days after notice in writing to such appointing power given by the other members of the board, or by some one of them or by the corporation hereinafter mentioned, of such death or resignation; and a certificate of every such appointment shall be filed as aforesaid. Except as otherwise provided by law, the terms of office of the said commissioners shall determine and expire with the performance of their functions as hereinabove prescribed. But any corporation heretofore organized or hereafter to be organized under this act, the successor or assign of any such corporation, which shall have constructed and put in operation a railway upon a part, and not upon the whole, of the route or routes fixed, determined and located for such railway by a board of commissioners acting under this act, may at any time apply for authority to abandon the portion, or some parts or part of it, of said route or routes upon which the railway shall not have been theretofore constructed or shall not be then in operation, with or without a change and relocation of said portion, or of some parts or part of it, of said route or routes, and with or without extension or extensions of the portion not abandoned of such route or routes, or of some parts or part thereof. Such application shall be made by petition in writing, addressed by such corporation to the board of supervisors of the county in which such portion of said route or routes so desired to be changed or abandoned shall be situated, or, if such route or routes or any part thereof shall be within the limits of a city, to the mayor of said city, for the route or portion thereof within such city, and such board of supervisors or, as the case may be, such mayor may, within thirty days after presentation of such application, and in the manner provided in section one of this act, appoint five commissioners, who shall be residents of said county, and who shall have full power and authority to do and provide all that they are in this act directed or authorized to do or provide. Within ten days after his appointment, each of said commissioners so appointed shall take and subscribe the oath and give the bond prescribed by section two of this act, and shall cause the same to be filed as in said section provided; and if any one so appointed shall not comply with this requirement, he shall be deemed to have declined to accept such appointment, and to have made a vacancy which the appointing power shall fill by another appointment as herein provided. Within fifteen days after such appointments shall have been so made, the commissioners shall meet at some convenient place in such county and complete their organization as a board with appropriate officers; such board shall have all the authority conferred by law upon commissioners appointed, or authorized to be appointed, under this act. Before proceeding to hear the application of the corporation, the board shall give such public notice as it may deem most proper and effective of the time and place of the hearing. Within thirty days after completing their organization, said board shall hear the application of the corporation, and, within sixty days after their organization, said board shall determine whether any parts or part of such route or routes should be authorized to be abandoned, and whether said portion of said route or routes, or any parts or part thereof, should be changed and relocated, with or without extension or extensions as aforesaid. If the board shall determine that no abandonment of any part of the route or routes should be allowed, and that no change and relocation of any part of the routes or route should be effected, and that no extension should be made, the board shall dismiss the application. But, if the board shall determine that an abandonment of any parts or part of said portion of the routes or route should be allowed or that any change in or extension of any parts or part

of such portion of the route or routes should be made, the board shall proceed to authorize and require the same, upon such conditions or condition as to the board shall seem proper, and with or without extension of the remainder of the route or routes, or of some parts or part of such remainder, by fixing, determining and locating the route or routes of the extension or extensions, if any, and by directing the abandonment of the parts or part of the route or routes theretofore located, but by the board allowed to be abandoned, if any, and by fixing, determining and relocating the parts or part of the route or routes theretofore located, but by the board changed, if any; and the board shall cause to be made in duplicate a survey and map of the route or routes as so changed and fixed, determined and located. Neither the said corporation nor any assign or successor thereof, shall thereafter have any authority, by reason of anything theretofore done under this act, to operate or construct any railway upon any part of said portion of the route or routes by the board so required to be abandoned. The board shall also fix and determine the time within which the railway or railways, by it authorized and required upon any parts or part of the portion of the route or routes so changed, shall be constructed and ready for operation. If the railway or railways upon any parts or part of any portion of the route or routes not by the board changed or allowed to be abandoned shall not have been theretofore constructed and made ready for operation, the board may extend and fix and determine anew, the time within which such railway or railways shall be completed, but such extension of time within which to construct said railroad shall not be for a longer period than that originally allowed by law for the completion thereof. If the board shall have determined that any portion of the route or routes theretofore located should be allowed to be abandoned, with or without a change and relocation thereof or of some parts or part thereof, and with or without extension, or if the board shall have extended the time within which such railway or railways shall be completed, the board shall make a report in writing in accordance with the determination so made, describing the portion or portions of the route or routes, if any there be, as so fixed, determined and located anew, describing also the parts or part, if any there be, of the routes or route allowed to be abandoned, and stating the period of time, if any, by the board fixed and determined within which such corporation shall construct and complete the railway or railways theretofore authorized or by it authorized to be constructed, and prescribing that a failure by the corporation, its successors or assigns, to complete such railway or railways within the time, if any, so limited, shall work a forfeiture to the supervisors of the county, or in the city of New York, to the mayor, aldermen and commonalty of the city of New York, of the right and franchises of such corporation with respect to that portion of the route or routes so fixed, determined and located anew, and with respect to the then authorized extension or extensions, if any there be, of said route or routes, upon which a railway shall not be constructed within the time so limited; provided, however, that the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period of time limited in this act or by this act authorized to be limited, and that any recital of any forfeiture of any rights or franchises prescribed, by any commissioners under this act appointed, to be to the mayor, aldermen and commonalty of the city of New York, shall be as effectual for any and all purposes as if such forfeiture had been in terms recited to be to the supervisors of the county of New York. Such report shall be signed in duplicate by at least a majority of the then members of the board, and there shall be thereto annexed the survey and map prepared as hereinabove directed, showing the line and location of each and all the routes, with or without extension or extensions, as fixed, determined and located, and showing also the parts or part, if any there shall be, of the routes or route, as theretofore fixed, determined and located, but by the board allowed to be abandoned. Within ten days after so signing such report the board shall cause the same to be filed in the office of the Secretary of State, and the duplicate thereof in the office of the clerk of the county wherein such railway or railways shall be located; and thereupon the corporation making such application, its successors or assigns, is and shall be authorized to con-

struct, maintain and operate a steam railway or railways for the transportation of passengers, mail and freight upon the route or routes so fixed, determined and located, and in said report described; provided, that the construction or operation of a street railroad is not and shall not be by this law authorized except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railroad be first obtained, or, in case the consent of such property owners can not be obtained, that the determination of three commissioners, to be, upon application, appointed by the general term of the Supreme Court, in the district in which such railroad is proposed to be constructed, be given after a hearing of all parties interested, that such railroad ought to be constructed or operated, which said determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Said corporation is, and the successors and assigns thereof shall be, authorized to maintain and operate all the railway and railways and the appurtenances thereof by it or them theretofore constructed upon any portion of a route or routes which shall have been located by commissioners under this act, and to complete, within the time in and by said report so extended, fixed and determined anew, and thereafter to maintain and operate, the railway or railways and the appurtenances thereof, upon so much of the route or routes theretofore fixed, determined and located as shall not have been so authorized and required to be abandoned, and with the same rights and effect, in all respects, as if such extended period of time had been the period originally fixed and determined, and in the original articles of association of such corporation recited, for completing such railway or railways and putting the same in operation. The other terms and conditions in and by such articles of association mentioned and prescribed, except as the same are hereinabove modified or may be modified by the board as hereinabove authorized, shall apply to the railway or railways herein authorized to be constructed and operated upon the route or routes as so changed, fixed, determined and located, with the same force and effect as if such route or routes, as finally so changed and located, had been in and by such articles of association themselves prescribed. Each of said commissioners shall be paid for his services at the rate of ten dollars per day for each day of actual service as such commissioner, to be paid by the corporation making the application so heard and determined; and each and all the reasonable expenses of the board, in or about any of the matters in this section referred to, shall also be paid by such corporation. (*Thus amended, Laws of 1888, chap. 514.*)

Limitations of act.

§ 40. This act shall not be construed to repeal or in any manner to affect chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," or the several acts amendatory thereof or supplementary thereto. None of the provisions of this act shall apply to any railroad company organized under any general or special law of this State, for the purpose of constructing or operating a steam railroad upon the surface of the ground, nor to the operation or management of any such railroad heretofore constructed.

Other limitations.

§ 41. It shall not be lawful for any company organized under the provisions of this act, or under any other act heretofore passed, to construct a steam railway upon St. Nicholas avenue in the city of New York, or those streets or avenues in said city commonly known as boulevards, except to cross the same, under such regulations as shall be imposed by the commissioners provided for by this act, and every such company shall be bound by the restrictions and limitations, as to its route and as to its mode of construction, which shall be established by the commissioners appointed under the acts from which its powers were derived, as far as such restrictions and limitations are consistent with the provisions of this act. The provisions of this section shall not be deemed to apply to any existing horse street railway heretofore authorized to be constructed.

(As to certain streets in New York city, see chap. 179, Laws of 1887.)

Proceedings for the apportionment of damages.

*§ 42. At any time not less than two years nor more than three years after the completion and operation of said railway or railways, any owner of, or party having or claimed to have any estate or interest in any of the property bounded upon that portion of any street or highway upon which such railway shall have been constructed, may petition the Supreme Court at any general term thereof, held in the judicial district in which such railway shall be located, for the appointment of commissioners to apportion among the persons entitled thereto, under the provisions of this act, the moneys deposited or secured for the payment of pecuniary damages under the sixth section thereof. Such petition shall be signed and verified according to the rules and practice of such court, and shall contain a description of the property of such petitioner, together with a statement in detail of damages which he may claim to have sustained. Upon the presentation of such petition, the court shall make an order for the service of the same, and of notice of the time and place of an application thereupon for the appointment of commissioners, by the publication of such petition and notice in not less than two newspapers published in the county in which the said railway is located; and not less than once a week for at least three months from the date of the first publication. (*Thus amended, Laws of 1882 chap. 393.*)

Ibid.

§ 43. At the time and place named in the said notice so published as above provided, and after hearing all parties appearing pursuant to such notice, the said court shall make an order for the appointment of three disinterested and competent persons, who shall be residents and freeholders in the county in which said railway is located, as commissioners to apportion among the persons entitled thereto, under the provisions of this act, the amount deposited as required by the sixth section hereof. (*Added by Laws of 1882, chap. 393.*)

Ibid.

§ 44. The said commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any one of them may issue subpoenas and administer oaths to witnesses; any two of them may adjourn the proceedings before them from time to time, in their discretion. Whenever they meet, except by the appointment of the court, or pursuant to adjournment, they shall cause notice of such meeting to be given to all parties who have appeared in the proceedings, in such manner as the court shall direct. They shall view the property bounded upon that portion of any street or highway upon which said railway is located, and hear the proofs and allegations of the persons owning, or having or claiming to have an interest therein, and of the railway company, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed, all being present and acting, shall ascertain and determine what amount of the money deposited or secured, as above provided, ought justly to be paid to each owner or person interested in said property, or any parcel thereof, as compensation for any diminution in value thereof caused by the construction, maintenance and operation of said railway; and in determining such amounts respectively they shall make allowances for any benefit which shall have accrued, or may thereafter accrue, to said property, or any parcel thereof, by reason of the construction and operation of said railway. The sum of all the amounts so awarded shall not exceed the amount deposited or secured by said railway company as above provided. The said commissioners shall make a report to the Supreme Court, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to \$5 per day for each day they are engaged in the performance of their duties. The fees of said commissioners, together with their reasonable expenses, approved by a justice of the Supreme Court, upon notice to the said railway company, shall be

*Sections 42 to 51 inclusive, are not applicable to the counties of New York and Westchester. § 5, chap. 393, Laws of 1882.

paid out of the moneys deposited with the county treasurer or trust company for such purpose as above provided in the sixth section hereof, and any balance of said moneys so deposited for such purpose shall thereupon be paid over to said railway company. No costs shall be allowed in the proceedings before said commissioners. (*Added by Laws of 1882, chap. 393.*)

Ibid.

§ 45. On such report being made by such commissioners, the petitioner, or any party who shall have appeared in the proceedings, may give notice to the other parties who have appeared according to the rules and practice of said court, at a special term thereof, for the confirmation of such report, and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings, and shall also direct to whom the money is to be paid. (*Added by Laws of 1882, chap. 393.*)

Ibid.

§ 46. Upon the expiration of thirty days after the entry of said order of confirmation, and upon the presentation of a certified copy thereof, the county treasurer or trust company shall pay the sums awarded by such order to the persons entitled thereto under the provisions of said order. Within twenty days after the entry of said order confirming the report of the commissioners and service thereof upon all parties who have appeared, any party may appeal, by notice in writing served upon all who have appeared, and upon the county clerk and county treasurer, to the general term of the Supreme Court from the said order of confirmation; and service of such notice upon the county treasurer or trust company shall stay all payments by him or it until the further order of the court. Such appeal shall be heard by the Supreme Court at any general term thereof, on notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may affirm the order so appealed from, or may reverse the same and direct a new apportionment before the same or new commissioners, in its discretion; and in case a new apportionment shall be directed, the second report shall be final and conclusive upon all parties interested. (*Added by Laws of 1882, chap. 393.*)

County treasurer or trust company to retain award in certain cases.

§ 47. In case any award shall have been made by said commissioners for diminution in value of any property, the owners of or persons interested in which shall not have appeared in said proceedings, the amount of such award shall be retained by the county treasurer or trust company, subject to such order as the court may afterward make. (*Added by Laws of 1882, chap. 393.*)

Excess of award over amount deposited to be repaid to corporation.

§ 48. In case the aggregate amount awarded to the several owners and persons interested shall be less than the amount deposited with the county treasurer or trust company as aforesaid, the excess of such amount shall be repaid to the corporation depositing the same, such repayment not to be made until thirty days after final confirmation of the report of the commissioners of apportionment. (*Added by Laws of 1882, chap. 393.*)

Proceedings where negotiable securities are deposited in lieu of money.

§ 49. In case the said corporation shall have deposited with the county treasurer or trust company negotiable securities in lieu of moneys, as provided in the sixth section hereof, then upon the confirmation of the report of the commissioners of apportionment, the county treasurer or trust company shall notify said railway company to pay to him the aggregate amount awarded by said report, and upon its failure so to do, shall sell the said securities, or such part thereof as may be necessary for the purpose of raising such amount. (*Added by Laws of 1882, chap. 393.*)

When other securities are to be substituted.

§ 50. In case any of the securities which may be deposited in lieu of money as provided in the sixth section hereof, shall, in the opinion of the

county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the said county treasurer or trust company shall call upon said railway company to substitute therefor other securities equivalent at their par and market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the said county treasurer or trust company shall call upon said railroad company to furnish as a substitute, and said railroad company shall so furnish, an amount of money equal to the amount in lieu of which the securities first above referred to were deposited. (*Added by Laws of 1882, chap. 393.*)

Appointment of commissioners to estimate and fix damages ; proceedings thereupon.

§ 51. Any corporation heretofore organized under the provisions of the act hereby amended, and which has not constructed its railway and has obtained the consent of the local authorities to the construction and operation of a railway upon any or all of the routes designated for it by its articles of association, and whose rights under such consent have not terminated, and whose proposed railway lies wholly within the limits of any city, may, within ninety days after the passage of this act, apply to the mayor of such city for the appointment of commissioners to estimate and fix the damages to be caused by the construction and operation of its railway upon and along the streets or highways as to which such consent has been given.

Such mayor shall thereupon appoint three disinterested and competent freeholders, residents in such city, who shall thereupon each take and subscribe an oath faithfully to perform the duties of his office; and the commission provided by this section shall thereupon have all the powers and authority as to ascertaining, estimating and fixing damages that the commissioners mentioned in the first section of this act have as to any corporation organized or to be organized by them, and all the provisions of this act as to ascertaining, estimating and fixing damages, the deposit of money or securities in lieu thereof, and the proceedings and authority to distribute and apportion the same, and the effect of a failure to make the deposit as thus required, shall apply to such corporation and commission, except so far as inconsistent with this section, and after a commission shall have been appointed under this section to ascertain, estimate and fix damages as hereinbefore provided, the corporation which made the application therefor may proceed without prejudice to obtain such other consent or authority as it may require, and the proceedings had under the authority given by this section may be presented in aid of any application it may make. (*Added by Laws of 1882, chap. 393.*)

(None of the provisions of this act, to wit, chap. 393, Laws of 1882, shall apply to the counties of New York, Kings and Westchester, and nothing herein contained shall be deemed to affect existing provisions of law as to the acquisition of the title to real estate for railroad purposes. § 5, chap. 393, Laws of 1882, as amended, chap. 531, Laws of 1886.)

CHAP. 514, LAWS OF 1888

AN ACT to amend chapter six hundred and six of the laws of eighteen hundred and seventy-five, entitled "An act further to provide for the construction and operation of a steam railway or railways in the counties of the State."

(Section 1 of this act amends § 18 of chap. 606, Laws of 1875. [See ante.])

(Section 2 of this act amends § 39 of said chap. 606, Laws of 1875. [See ante.])

§ 3. The provisions of section two of this act do not authorize and shall not be construed to authorize the extension, abandonment, or change of location of any route, or of any part of any route, of any corporation the greater portion of whose routes or route is or shall be in that portion of the city of New York south or west of Harlem river, and do not authorize and shall not be construed to authorize, the extension, abandonment, or

change of location of any route, or of any part of any route, of any corporation in the city of Brooklyn or county of Kings; and nothing in this act contained shall authorize or be construed to authorize the construction, extension, abandonment, or change of location of any railway, or the location of any route for a railway, over, under, through or across any street, avenue, place or lands south of One Hundred and Twenty-eighth street or west of Third avenue in that portion of the city of New York south or west of Harlem river, or where a railway may not now by law be constructed or is not now by law authorized to be by a board of commissioners located.

CHAP. 485, LAWS OF 1881.

AN ACT to amend and supplementary to chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in the counties of the State," as amended by chapter 417 of the Laws of 1880.

(Section 1 amends Laws of 1875, chap. 606, § 4.) [See page 380 hereof.]

Route in case of exempted streets.

§ 2. Wherever any street or part of a street, by this act exempted from the provisions of the acts hereby amended, has, by commissioners appointed by the mayor as in said amended acts provided, been designated or determined upon, as a portion of the route of a steam railway, and a corporation has been formed under said acts to construct a railway over or on such exempted streets, the said commissioners shall have the power to fix, determine and locate a route for the railway of such corporation over, under, through or across the streets, avenues, places or lands not exempted, in the city where such exempted street is located, as may by such commissioners be deemed to be necessary or proper on account of such street having been exempted as aforesaid, but in the same general direction as such exempted street. Nothing in this act contained shall affect any rights or proceedings of such corporation in or to the remaining portion of its route, and all such proceedings may be continued, and such commissioners may strike from the route of such corporation all portions thereof which they may deem have been rendered inappropriate or inapplicable by this act. The term street in this section shall be deemed to include avenue or place.

Plans; right to build railways.

§ 3. The said commissioners shall also have the power, at the same time, to fix the plan or plans for the railway to be built upon the route by them fixed as herein provided, but such plans shall be of the same general character as those by them theretofore for the railway of such company provided, and they shall certify and verify by affidavit their proceedings had under this and the preceding section, and file such certificate and affidavit in the office of the Secretary of State with and as a part of the articles of incorporation of such corporation, theretofore filed, and a copy of such certificate and affidavit, certified to be a copy by the Secretary of State or his deputy, shall be presumptive evidence of the facts therein stated. Such corporation shall have the right to build and operate its railway upon the route fixed therefor (as in this and the preceding section provided) subject to the provisions and requirements contained in the section amended by the first section of this act, and all the provisions of the acts by this act amended, not inconsistent herewith, shall apply to the route fixed as in this and the preceding section provided, and the route under such sections fixed and the portion remaining of the route originally fixed shall be and be deemed to be the route for the railway of such corporation.

CHAP. 252, LAWS OF 1884.

AN ACT to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages.

Corporators, not less than thirteen; articles of association; what to contain when filled; duty of Secretary of State; subject to provisions of title 3, chapter 18 of the first part of the Revised Statutes, except seventh section; subject to General Railroad Act, except as modified; certificate to be filed with Secretary of State; what to contain.

SECTION 1. Any number of persons, not less than thirteen, may make and sign articles of association, and form a company for the purpose of constructing, maintaining and operating a street surface railroad for public use in the conveyance of persons and property in cars for compensation, in any of the cities, towns or villages of this State, or in any two or more civil divisions thereof. Such articles of association shall state the name of the company, the number of years the same is to continue, the names of the cities, towns and villages, and the counties, and the names or description of the streets, avenues and highways in which the road is to be constructed, the places from and to which the road is to be constructed, maintained and operated, the length of said road, as near as may be, the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of the seven or more directors of the company who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber of said articles of association shall subscribe thereto his name, place of residence, and number of shares of stock he agrees to take in said company. Such articles of association shall be filed in the office of the Secretary of State when \$1,000 of stock for every mile of railroad proposed to be constructed has been subscribed thereto, and ten per cent paid thereon in good faith, in cash, to the directors named in said articles of association, and when there is indorsed on said articles of association, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon, as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association. The Secretary of State shall indorse on said articles of association the day they are filed, and record the same and said affidavit in a book to be provided by him for that purpose; and from the date of such filing the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title. Such corporation shall also have all the powers and privileges granted, and be subject to all the liabilities imposed by this act, or by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the several acts amendatory thereof, except as the said acts are herein modified. No existing street surface railroad company shall extend its line, or construct any branch thereof under this act, until it has made and filed with the Secretary of State a certificate signed by its board of directors, which certificate shall contain a statement of the name of the cities, towns, villages and counties, and the names or description of the streets, avenues and highways in which such extension or branch is to be constructed, the places from and to which the same is to be constructed, maintained and operated, and the length thereof as near as may be.

Board of directors ; their number.

§ 2. The board of directors of every corporation formed under this act shall consist of not less than seven nor more than thirteen.

Powers and privileges ; proviso ; consent of owners to be acknowledged ; who are the local authorities.

§ 3. Any company organized as aforesaid, or any existing street surface railroad company or corporation heretofore organized for the purpose of building and operating a street railroad, may construct, maintain and operate, use and extend a railroad or branches on the surface of the soil, through, upon and along any of the streets, avenues, roads or highways of such cities, towns and villages, and also through, along and upon any private property which said company may acquire for the purpose, and may also construct such switches, sidings, turnouts and turn-tables, and suitable stands as may be necessary for the convenient working of such road, provided that the consent in writing of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate, such railroad, be after the passage of this act first obtained. The consent of such owners shall be acknowledged as are deeds entitled to be recorded. In any city the common council acting subject to the power now possessed by the mayor to veto ordinances, and in any village the board of trustees shall be the local authorities to give all the consents required under this act in respect of such city or village. Provided that where in any city the exclusive control of any street, road, highway, avenue, or property which is to be used or occupied by any such company is, by law, vested in any local authority other than the common council of such city, the consent of the local authorities, in whom such exclusive control is so vested, shall be also obtained.

(See in this connection Laws of 1860, chap. 10.)

Notice ; to be published for how long time ; consent of local authorities to be applied for in writing ; when consent shall cease ; value, how determined ; when consent of property holders is not obtained.

§ 4. In incorporated cities, before acting upon an application for their consent, the local authorities shall give public notice of such application and of the time and place when such application will first be considered by a notice thereof, to be published daily for at least fourteen days in two daily newspapers of said city, to be designated by the mayor of the city. And when such application is made to the local authorities of any incorporated village, the notice of such application shall be published for at least fourteen days in a newspaper published in said village, if any there shall be ; if none, then in two daily newspapers published in the city nearest such village. The consent of the local authorities shall in all cases be applied for in writing, and when granted, shall be upon the express condition that the provisions of this act pertinent thereto shall be complied with, and shall be filed in the office of the county clerk of the county in which said railroad is located. Any consent so given by said local authorities shall cease and determine at the expiration of one year thereafter, unless prior to the expiration of such period the company obtaining such consent shall have filed the consent of the requisite amount in value of property owners or the determination of commissioners confirmed by the court, as herein provided. The consent of the local authorities, given as aforesaid, shall operate as the consent of such city, town or village, as the owners of any property, that such railroad may be constructed, maintained and operated in, upon and along any street, avenue, road or highway by which such property is bounded, except that where such railroad runs through any street or avenue bounded on one side by any public park or square, the consent of one-half the owners of property on the other side of said street or avenue, and opposite such park or square, shall also be first obtained. For the purposes of this act the value of the property so bounded shall be ascertained and determined from the assessment-roll of the city or town in which such property is situated, confirmed or completed last before the local authorities shall have given their consent, excepting such property owned by such city, town or village, the value of

which shall be ascertained and determined by allowing therefor the same price or value as is shown by such assessment-roll to be the value of the equivalent in size and frontage of any adjacent property on the same street. In case the consent of property owners required by any provision of this act cannot be obtained, the company so failing to obtain such consents may apply to any general term of the Supreme Court held in the district in which the road of such company is proposed to be constructed, for the appointment of three commissioners to determine, after a hearing of all parties interested, whether such railroads ought to be constructed and operated.

Id.; service of notice; commissioners to be appointed; vacancies.

§ 5. Notice of such application shall be served personally upon each property owner not having given his consent by delivering the same to him or his agent or representative, as such owner, agent or representative appears upon such assessment-roll of the city or town in which the property is situated; or by mailing the same, properly folded and directed, to such owner, agent or representative, at the post-office nearest his usual place of residence, with the postage paid thereon, at least ten days prior to such application. If the person on whom such service is to be made is unknown, or his residence is unknown, and cannot by reasonable diligence be ascertained, no service of such notice, personally or by mail, need be made. And said general term of the Supreme Court to which such application is made, upon due proof of the service aforesaid, shall appoint three disinterested persons, who shall act as commissioners, and said commissioners, within ten days after their appointment, shall cause public notice to be given of their first sitting, in the manner directed by said general term, and may adjourn from time to time until all their business is completed. Vacancies may be filled by said general term, after such notice to persons interested as it may deem proper to be given, and the evidence taken before as well as after the occurring of the vacancy shall be deemed to be properly before said commissioners.

Commissioners to determine whether road ought to be constructed to be confirmed by court; taken in lieu of consent of property owners shall be made within sixty days unless extended.

§ 6. The said commissioners shall determine, after such public hearing of all parties interested, whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to said general term, and their determination that such road ought to be constructed and operated, confirmed by said court, shall be taken in lieu of the consent of the property owners before mentioned. Such report shall be made within sixty days after appointment of said commissioners, unless the said court or judge thereof shall, for good cause, show, extend such time.

§ 7. (Repealed.) See chap. 642, Laws of 1886, § 5.

In cities having population of 250,000 or more, corporation to pay percentage of gross receipts into city treasury; in other incorporated cities or villages where company or corporation fail to pay such percentage, verified report to be made; forfeiture; false report; punishment therefor.

§ 8. Every incorporation incorporated under, or constructing or operating a railroad constructed or extended under the provisions of this act, within the cities of the State having a population of 250,000 or more, as aforesaid, shall for and during the first five years after the commencement of the operation of any portion of its railroad, annually, on the first day of November, pay into the treasury of said respective cities, in which its road is located, to the credit of the sinking fund thereof, three per cent of its gross receipts for and during the year ending the next preceding thirtieth day of September, and after the expiration of said five years make a like annual payment into the treasury of said respective cities for the credit of said sinking funds of five per cent instead of three per cent of said gross receipts; provided, however, that every corporation now existing and operating a street surface railroad which shall extend its tracks

or construct branches therefrom, and operate such extensions or branches under the provisions of this act, or the corporation operating such branches or extensions shall pay such percentages as aforesaid only upon such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension and branches shall bear to the entire length of its tracks. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this act, the payment annually of such percentage of gross receipts, not exceeding three per cent, into the treasury of said city or village, as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner hereinbefore provided. The company or corporation failing to pay such percentage of its gross earnings, as aforesaid, shall, after said first day of November, pay in addition thereto five per cent a month on such percentage until paid. The president and treasurer of any company required by the provisions of this act to make a payment annually upon its gross receipts shall, on or before the first day of November in each year, make a verified report to the comptroller or treasurer of the city, of the gross amount of its receipts for the year ending the next preceding thirtieth day of September, and the books of said company shall be open to inspection and examination by said comptroller, treasurer or his duly appointed agent, for the purpose of ascertaining the correctness of said report as to said gross receipts. The corporate rights, privileges and franchises acquired under this act, by any corporation which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the State of New York, and upon judgment of forfeiture rendered in a suit brought in the name of the people by the Attorney-General, shall cease and determine. Any person intentionally making a report as herein provided, which shall be false, shall be guilty of perjury.

Corporation to keep certain portion of streets in repair; when neglected, local authorities may enact ordinances; penalty.

§ 9. Every such corporation incorporated under, or constructing, extending or operating a railroad constructed or extended under the provisions of this act, within the incorporated cities and villages of this State, shall also whenever and as required and under the supervision of the proper local authorities, have and keep in permanent repair the portion of every street and avenue between its tracks, the rails of its tracks and a space two feet in width outside and adjoining the outside rails of its track or tracks so long as it shall continue to use such tracks so constructed under the provisions of this act. In case of the neglect of such corporations to make such pavement or repairs, the local authorities may make the same at the expense of such corporation, after the expiration of thirty days' notice to do so. The local authorities having charge of streets, avenues, roads or highways in cities and incorporated villages may make such reasonable ordinances or regulations as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interest and convenience of the public may require. A corporation whose servants or agents willfully or negligently violate such an ordinance or regulation, as aforesaid, shall be liable to such city or village for a penalty not exceeding \$500.

Within what time road to be built.

§ 10. In case any corporation incorporated under this act, or seeking to to extend its road under the provisions thereof, shall not commence the construction or extension of its road within one year after it has acquired the consent of the local authorities and property owners, or determination of the general term of the Supreme Court as herein required, and shall not complete the same within three years after obtaining such consents, its rights, privileges and franchises acquired under the provisions of this act shall cease and determine. During the pendency of legal proceedings the Supreme Court shall have power to extend the period for the performance of any act herein required.

Compensation of commissioners.

§ 11. The commissioners provided for in this act, to be appointed by the general term, shall receive the sum of \$10 each per day for each and every day they may be engaged, and the charges, expenses and disbursements of such commissioners shall be paid by the company making the application for their appointment.

Motive power; approval of Railroad Commissioners requisite to determine kind of; provisions as to consent of property owners.

§ 12. Any street surface railway company may in any case operate any portion of its railroad by cable or electricity, or by any power, other than locomotive steam power, instead of by animal or horse power, which may be approved by the State Board of Railroad Commissioners and consented to by the owners of one-half in value of the property bounded on that portion of the railroad as to which a change of motive power is proposed; and in case the consent of the property owners cannot be obtained, then the determination of three disinterested commissioners, appointed by the general term of the Supreme Court in the department in which said railroad is located, in favor of such motive power, confirmed by said court, shall be taken in lieu of the consent of said property owners. The provisions of sections three, four, five and six of the act hereby amended shall apply, so far as applicable, to such consents of said property owners and to the proceedings for the appointment and determination of said commissioners and the confirmation of said determination. It shall be lawful for any such railroad company to make any changes in the construction of its road or road-bed at any time rendered necessary by a change in its motive power. (*Thus amended, Laws of 1889, chap. 531. See, also, chap. 432, Laws of 1873, page 411.*)

Rate of fare; where not to apply.

§ 13. No company or corporation incorporated under, or constructing and operating a railroad under the provisions of this act, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road or line or branch operated by it, or under its control, to any point thereon, or on any connecting branch thereof within the limits of any incorporated city or village. This section shall not be construed to apply to any part of any road heretofore completed, and now in operation, unless such company shall acquire the right to extend such road, or to construct branches thereof under the provisions of this act, in which event its rate of fare shall not exceed its authorized rates prior to such extension.

(As to the city of Buffalo, see chap. 431, Laws of 1886.)

Not to construct road in street, etc., where other surface road is built without consent of such other road; proviso; commissioners.

§ 14. Except for necessary crossings, no street surface railroad company shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway in which a street surface railroad is, or shall be lawfully constructed, except with the consent of the company owning and maintaining the same; provided, however, that any two or more railroad companies now existing or hereafter formed under the provisions of this act, may join and unite and use each other's tracks for a distance not exceeding 1,000 feet, whenever the court, upon an application for the appointment of commissioners, next hereinafter provided, shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, and that the public convenience requires the same, in which event the right of such use shall be given only for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts, as provided in respect to acquiring title to real estate under chapter 140 of the Laws of 1850, entitled "An act to authorize the forma-

tion of railroad corporations, and to regulate the same," and the several acts amendatory thereof; or by the Board of Railroad Commissioners in cases where the companies interested shall unite in a request for such Board to act. Such commissioners, in determining the compensation to be paid for the use by one company of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the company whose tracks may be so used.

Corporation may lease portions of its track to other corporations; restriction.

§ 15. It shall be lawful for any street surface railroad company or companies to lease, or to transfer its or their right, subject to all its or their obligations in respect thereof, to run upon or to use any portion of its or their railroad tracks, to any other street surface railroad company authorized to run upon such route, upon such terms as may be agreed upon by a majority of the respective boards of directors thereof, subject to approval or rejection by a vote of the majority of the stock represented at meetings of the stockholders of each of such companies, called for that purpose, and held within three months after such agreement shall have been adopted by the several boards of directors. But nothing in this section shall be construed to authorize any railroad company in cities of over 300,000 population to lease its rights or franchises to any other company in said cities which owns and operates a road parallel thereto.

No road to be constructed under chapter 606, Laws of 1875.

§ 16. No street surface railroad shall be constructed to run in whole or in part upon the surface of any street or highway under the authority of any commission appointed under the provisions of chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in counties of the State," or the acts in addition thereto or amendatory thereof.

Nor upon grounds occupied by public buildings or parks; exception.

§ 17. No street surface railroad shall be constructed or extended under the provisions of this act upon ground occupied by buildings belonging to any town, city, county or to this State, or to the United States, or in public parks, except in tunnels, to be approved by the local authorities having control of such parks.

See, also, chap. 179, Laws of 1887, as to New York city.

Repeal; proviso.

§ 18. All acts and parts of acts, whether general or special, inconsistent with this act, are hereby repealed, but nothing in this act shall revive or make valid for the purposes of this act any consents of property owners or local authorities obtained prior to the passage of this act, or shall interfere with or repeal or invalidate any rights heretofore acquired under the laws of this State by any horse railroad company or affect or repeal any right of any existing street surface railroad company to construct, extend, operate and maintain its road in accordance with the terms and provisions of its charter, and the acts amendatory thereof, or revive any charter which has become lapsed or forfeited, or any pending litigation.

Power of Legislature, etc.

§ 19. The legislature may at any time alter, amend or repeal this act.

CHAP. 642, LAWS OF 1886.

AN ACT to amend chapter sixty-five of the laws of eighteen hundred and eighty-six, entitled "An act to secure adequate compensation for the right to construct, maintain, use, operate or extend street railroads in cities and villages."

SECTION 1. Chapter sixty-five of the laws of eighteen hundred and eighty-six is hereby amended so as to read as follows:

Franchise for road must be sold. sale, how conducted: rates of fare, etc.

§ 1. The local authorities of any incorporated city or village, to whom application may be made for consent to the construction, maintenance, use, operation or extension of a street railroad or a railroad or railway for the transportation of passengers, mails or freight, over, upon, under or through any of the streets, roads, avenues, parks or public places in such city or village must provide, as a condition of the said consent to the use of said street, road, avenue, park or public place, that the right, franchise and privilege of using the said street, road, avenue, park or public place, shall be sold at public auction to the bidder who will agree to give the largest percentage per annum of the gross receipts of said company or corporation, with adequate security as hereinafter provided, for the fulfillment of said agreement and for the commencement and completion of such road according to the plan or plans, and on the route or routes fixed for its construction within the time or times hereinafter designated and prescribed therefor, but this agreement shall not release any such road from the percentages required to be paid by chapter 252 of the Laws of 1884, and whenever a sale shall be made of the right to construct and operate a branch or extension of an existing railroad, but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor, and if operated by separate corporations, earnings from such joint business shall be divided upon the basis of mileage, in the proportions provided by section eight of chapter two hundred and fifty-two of the Laws of one thousand eight hundred and eighty-four. The legislature expressly reserves the right to regulate and reduce the rate of fare on such railroad or railway. The local authorities of any city or village may give such consent to any applicant therefor duly incorporated and existing under the laws of this State for the purpose of providing street railroad facilities for compensation in said city or village; and the bidder to which such consent may be sold shall be an incorporated railroad or railway company, organized to construct, maintain and operate a street railroad in the city or village for which such consent may be given. Prior to such sale, notice of the time, place and terms thereof, and of the route or routes to be sold, and of the conditions upon which the consent of said local authorities to the construction, maintenance, use, operation or extension of such street railroad or any railroad or railway carrying freight, passengers or mails over, under or upon any of the streets, roads, avenues, parks or public places of any incorporated city or village will be given, shall be published three times a week for at least three weeks in two daily newspapers of said city, to be designated by the mayor of said city, except in cities where two daily papers are not published, then said notices shall be published at least once a week for at least three weeks successively in a newspaper published in said city, to be designated by the mayor. And the local authorities of any incorporated village shall, prior to any sale by them as herein provided, cause the notice above provided for to be published for at least three weeks in a newspaper published in said village, if any there shall

be; if none, then in two daily newspapers published in the city nearest said village. The comptroller or other chief fiscal officer of the cities, and the president of the board of trustees in villages, shall attend and conduct the sale to be made under the provisions of this act, and may adjourn the same from time to time, not exceeding twice for a period not exceeding four weeks in the aggregate, and may cancel the bid if the bidder shall not furnish satisfactory security, and sell the said consent and license in the same manner as above provided. The bidder or bidders to whom the said consent or license shall be sold, shall commence the construction of the said road within one year, and complete the same within three years from the date of sale. The said bidder who may build and operate said railroad, shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities of the city or village, and in the event of the failure or refusal of the party or corporation operating or using the railroad to be constructed as aforesaid to pay the rental or percentage of gross earnings agreed upon, then, upon notice to the said party or corporation—of not less than sixty days—the said consent and right to operate such railroad may be declared forfeited, and the same may be resold to the highest bidder in the manner above provided. Such forfeiture may be decreed or ordered by the judgment of any court having jurisdiction, after the party or corporation shall have opportunity to be heard in their defense. (*Thus amended, chap. 564, Laws of 1889.*)

When consents shall cease; when not to apply to elevated roads; not applicable to certain surface street roads.

§ 2. This act shall apply to all applications for consents by such local authorities to construct, maintain, use, operate, or extend such street railroads or railways as aforesaid, made under or in pursuance of any statute, whether such application is hereafter made or may have been heretofore made, but not at the passage of this act finally acted upon by the local authorities; and all consents hereafter given by said local authorities shall cease and determine at the expiration of two years thereafter, and all such consents heretofore given shall cease and determine at the expiration of two years from the date of the passage of this act, unless prior to the expiration of such period or periods the consents of the owners of a sufficient proportion of the property situated on the line of the proposed railroad or railway, or the approval of the general term of the Supreme Court shall have been obtained. None of the provisions of this act, or of chapter sixty-five of the Laws of eighteen hundred and eighty-six, or of chapter six hundred and forty-two of the Laws of eighteen hundred and eighty-six, except the provisions of this section in relation to the determination of the consents of said local authorities shall apply to companies now organized or hereafter to be organized for the purpose of building elevated railroads in counties having less than one million inhabitants nor to street surface railroad companies now organized, or hereafter to be organized, in cities or villages having less than ninety thousand inhabitants, as determined by the United States census of eighteen hundred and eighty. (*Thus amended, chap. 281, Laws of 1889.*)

Security, nature and form of.

§ 3. The security required by section one of this act shall be a bond or undertaking in writing and under seal, in such form, condition, amount and sureties as shall be required and approved by the comptroller or other chief fiscal officer of any such city, and by the trustees of any such village.

Limitation.

§ 4. This act shall not affect the New York Arcade Railway Company nor the rights possessed by it.

Repeal.

§ 5. Section seven of chapter two hundred and fifty-two of the Laws of eighteen hundred and eighty-four entitled "An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages," and all amendments of said section, and all acts or parts of acts inconsistent herewith are hereby repealed.

CHAP. 271, LAWS OF 1886.

AN ACT in relation to the consents of property owners, order of the general term confirming reports of commissioners and the consents of the local authorities heretofore given to the construction and operation of street surface railroads by companies which have been dissolved or annulled, or whose charter may have been repealed by legislative enactment.

Dissolution of company not to revoke consent of owners.

SECTION 1. Whenever any street surface railroad company shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of the owners of property bounded on and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such company shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated, or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being for the uses and purposes herein mentioned.

Right to further enjoyment to be sold.

§ 2. The right to the further enjoyment and the use, subsequent to said act of dissolution, annulment or repeal, of the said consents and orders and of each thereof, and of all the powers, privileges and benefits therein or thereby created shall be sold at public auction by the municipal authorities within whose jurisdiction such railroads shall be, in the same manner as is provided by section one of chapter sixty-five of the Laws of eighteen hundred and eighty-six, and laws amendatory thereof.

Rights of purchaser on resale.

§ 3. When such sale shall have been so made, the purchaser thereof shall have the right to the further enjoyment and use of said consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created in like manner as if such purchaser had been originally named in such consents, reports and orders; provided, that such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroads shall be.

CHAP. 549, LAWS OF 1888.

AN ACT relating to the corporate rights and powers of street surface railroad companies.

Corporate existence and powers of certain unfinished surface street railroads.

SECTION 1. The corporate existence and powers of every street surface railroad company, which has completed a railroad upon the greater portion of the route designated in its articles of association, within ten years from the date of filing said articles of association in the office of the Secretary of State, and which has operated such completed portion of its said railroad continuously for a period of ten years last past, and is now operating the same, shall continue with like force and effect, as though said company had in all respects and particulars complied with the provisions and requirements of chapter seven hundred and seventy-five of the laws of eighteen hundred and sixty-seven, entitled "An act to amend an act entitled 'An act to authorize the formation of railroad corporations and to regulate the same,'" passed April second, eighteen hundred and fifty, and the amendments thereto.

Rights to operate extensions and branches.

§ 2. Every such street surface railroad company shall have the right to operate any extensions and branches of its said railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past with like force and effect, as though the route of said extensions and branches were designated in its articles of association.

Consent of local authorities and property owners necessary to the operating of such roads.

§ 3. Every such street surface railroad company is authorized to operate its said railroad, and any extensions or branches thereof, upon condition that it has heretofore, or shall hereafter first obtain the consent of the local authorities having the control of the portion of the streets, avenues or highways included in said railroad, or any extension or branches thereof, to the construction or operation of the same, and also upon the condition that it has heretofore or shall hereafter first obtain the consent of the owners of one-half in value of the property bounded on the portion of the streets, avenues or highways included in the route of said railroad, or any extensions or branches thereof, to the construction or operation of the same, or in case the consent of such property owners cannot be obtained, the general term of the Supreme Court, in the district in which said railroad, or any extension or branch thereof is located, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

Consent heretofore made confirmed.

§ 4. All consents heretofore given, or grants made by local authorities having control of the portion of any street, avenue or highway included in the route of said railroad, or any extensions or branches thereof, to any such street surface railroad company, are hereby ratified and confirmed and declared valid.

Act not applicable to New York city, nor to special grants.

§ 5. This act shall not affect nor apply to any railroad company in the city of New York; nor to any special grant made to or authority conferred upon any street surface railroad corporation by any law of this State, nor shall it impair existing rights, privileges or franchises of any street surface railroad company; nor shall it affect any pending litigation.

CHAP. 305, LAWS OF 1885.

AN ACT authorizing street surface railroad companies to contract with each other, and providing for a proper system of transfer of passengers.

Street surface roads may contract with each other.

SECTION 1. It shall be lawful hereafter for any street surface railroad company, or any corporation owning or operating a street surface railroad or railroad route, to contract with any other such company or corporation for the use of their respective roads or routes, or any portion thereof, subject to the provisions, restrictions and conditions hereinafter stated, and thereafter to use or to permit the use of the same in such manner as may be prescribed in such contract. But nothing in this act shall authorize the road or route of any railroad corporation to be used or operated by any other railroad corporation in a manner inconsistent with the provisions of the charter of the corporation whose railroad or railroad route is to be used or operated under such contract.

Directors may enter into lease or contract.

§ 2. The directors of the companies may enter into such a lease or contract under the corporate seal of each company, such lease or agreement prescribing the terms and conditions thereof.

Agreement to be submitted to vote of stockholders; lease to be filed and recorded; portions of routes may be abandoned in certain cases.

§ 3. Such lease or agreement shall be submitted to the stockholders of each of the said companies or corporations, at a meeting thereof, called separately for the purpose of taking the same into consideration; due notice of the time and place of holding said meeting, and the object thereof shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, at the address of such persons as stated on such books, or as known to the secretary of the company, and delivered or mailed to such persons or the legal representatives of such persons respectively, at least thirty days before the time of holding the meeting of such company, and also by a general notice published daily for at least four weeks in some newspaper last designated for the publication of the session laws, or of judicial proceedings and legal notices in the county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holders thereof to one vote, and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of stockholders cast in person or by proxy at such meeting shall be for the adoption of said lease or agreement, then that fact shall be certified thereon by the secretaries of the respective companies under the seal thereof, and the lease or agreement so adopted, or a certified copy thereof, shall be filed and recorded in the office of the Secretary of State, and shall, from the time of such filing, be deemed and taken to be the lease or agreement of the said companies: a copy of the said lease or agreement, duly certified by the Secretary of State, under his official seal, shall be evidence thereof in all courts and places. Any company being the lessee or lessor, or both, or having the right to use the route or portion of the route of another company pursuant to a lease or agreement entered into as above provided may declare relinquished and abandoned any portion of its own route which it may deem no longer necessary for the successful operation of its road and convenience of the public in consequence of such lease or contract. Such declaration of abandonment to be valid shall be adopted by the board of directors under the seal of such company and shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as above provided for meetings to pass upon such lease or agreement, and if the votes of two-thirds in amount of all the stockholders of the company, cast as above provided, in respect of authorizing a lease or contract, shall be for the ratification and adoption of said declaration of abandonment, then that fact shall be certified thereon by the secretary of the company under the seal thereof, and the

declaration so adopted shall be submitted for approval to the State Board of Railroad Commissioners, and if approved by them such approval shall be indorsed thereon and the said declaration, so certified and indorsed, shall be filed and recorded in the office of the Secretary of State, and from the time of such filing, such portion of said route designated in such declaration of such company shall be deemed and taken to be abandoned. A certified copy of such declaration shall be presumptive evidence of the facts which it recites and of the regularity of the proceedings resulting in such abandonment. (*Thus amended, chap. 532, Laws of 1889.*)

Companies contracting shall carry passengers between any two points; one continuous trip for one fare; penalty.

§ 4. Each and every company entering into any contract under the power conferred by this act shall carry or permit any other party to such contract to carry between any two points on the railroads or portions thereof embraced within such contract, any passenger desiring to make one continuous trip between such points for one single fare not higher than the fare lawfully chargeable by either of such companies for an adult passenger; and each and every such company shall, upon demand and without extra charge, give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip to any point or any portion of any railroad embraced within such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced within such contract to the extent of their inclusion therein substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section, the company so refusing, and having contracted as aforesaid, shall forfeit to the aggrieved party the sum of \$50, which may be recovered in any court of competent jurisdiction. This act shall not apply to cities having less than 800,000 population.

§ 5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 432, LAWS OF 1873.

AN ACT to authorize the use of improved motive power on railroads in any city or county of this State.

Mayor and common council, etc., may allow use of improved motive power on street railroads.

SECTION 1. The mayor and common council of any city, the board of trustees of any village, and as to streets or roads outside of any such city or village, the board of supervisors of any county of this State are hereby authorized to permit the use of any improved motive power or motor, for the traction or propelling of cars on any city or street railroad which is or may be constructed and operated by horse power, within their respective jurisdictions, such permission to be subject to such restrictions, regulations and conditions as the said local authorities may impose, and subject to revocation at any time by the authority granting the same, by a two-thirds vote of its members.

Increase of fare not authorized.

§ 2. Nothing contained in this act shall authorize an increase of the rate of fare, nor allow the transportation of freight in any city or allow the use of the ordinary dummy or box-car engine, or of locomotives of the kind now used for the traction of cars on steam railroads of this State. Nothing in this act contained shall affect any contract in relation to the removal of steam power on any street in any city of this State.

CHAP. 349, LAWS OF 1882.

AN ACT to authorize the use of the tracks of horse railroads in certain cases.

Railroad companies may use tracks of other roads to make connections.

SECTION 1. It shall be lawful for any railroad corporation in this State whose cars are run and operated by horses on tracks upon the surface of the street, for the purpose of enabling it to connect with and run and

operate its cars between its tracks as now run and operated, and a depot or car-house owned by it, to run upon, intersect and use, for not exceeding the distance of 500 feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner, with the necessary connections and switches for the proper working and accommodation of the cars upon the said tracks and in connection with said depot or car-house.

Compensation.

§ 2. Any corporation availing itself of the privileges granted by the first section of this act shall pay therefor such compensation as it may agree upon with the corporation owning the tracks which it is thereby authorized to run upon, intersect and use; and in case the said corporation cannot agree as to the amount of such compensation, the same shall be ascertained and determined by commissioners to be appointed by the Supreme Court as is now provided by law in respect to acquiring title to real estate by railroad corporations.

Not to affect surface roads in New York city, nor on Washington street in the city of Brooklyn.

§ 3. This act shall not affect any surface railroad in the city and county of New York, nor shall anything herein contained be construed as authorizing the use or crossing of any railroad tracks now constructed on Washington street in the city of Brooklyn, or the construction, laying and maintenance of any tracks, switches, sidings, connections or turnouts upon said Washington street, or upon any street where it intersects or crosses the same.

CHAP. 560, LAWS OF 1888.

AN ACT to authorize the use of sand upon tracks of street surface railroads in cities of this State having a population of five hundred thousand or more.

Use of sand on surface street roads in cities of five hundred thousand or more inhabitants.

SECTION 1. After the passage of this act it shall be lawful for the owner or operator of any horse or surface street railroad in cities of this State having a population of five hundred thousand or more to place upon the space between the tracks of said road, sand in sufficient limited quantities to prevent the horses traveling thereon from slipping.

§ 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 906, LAWS OF 1867.

AN ACT to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, in relation to reports of railroad corporations.

Prior act limited.

SECTION 1. The requirements of section 31 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, shall not apply to street or horse railroads, except as hereinafter provided.

Annual report.

§ 2. Every railroad corporation in this State whose road is operated by horse power exclusively, or by steam dummy cars exclusively, or partly by horse power and partly* steam dummy cars, and every such railroad corporation which shall be hereafter organized, shall make an annual report to the State Engineer and Surveyor, of the operations of the year ending on the thirtieth day of September; which report shall be verified by the oaths of the treasurer or president and acting superintendent of operations, and be filed in the office of the State Engineer and Surveyor by the first of December in each year, and shall state

*So in the original.

(So much of this section as prescribes the form of the report in detail is omitted, another form of report having been prescribed and adopted under the provisions of § 10, chap. 353, Laws of 1882, see page 343.)

(Section 3 amends the General Railroad Act of 1850, § 32.)

Application of act.

§ 4. The provisions of section 32 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April second, 1850, as herein amended, shall apply to all railroad corporations referred to in section two of this act.

CHAP. 267, LAWS OF 1880.

AN ACT authorizing individuals, joint-stock associations or corporations engaged in the manufacture of railroad cars to lay down and maintain railroad tracks connecting their manufacturing establishments with existing railroads.

May lay down and maintain railroad tracks; proviso.

SECTION 1. Any individual, joint-stock association or corporation now or hereafter engaged in the manufacture of railroad cars in this State may lay down and maintain such railroad tracks, not exceeding one mile in length, as shall be necessary to connect such manufacturing establishment with the tracks of any railroad now or hereafter operated in this State; provided they shall obtain the consent of the owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the general term of the Supreme Court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

Limitation of act.

§ 2. The provisions of this act shall not apply to the counties of New York and Kings.

CHAP. 452, LAWS OF 1881.

AN ACT to authorize corporations owning canals to construct and operate railroads along side of or in lieu thereof.

Corporation owning canal may construct railroad.

SECTION 1. It shall be lawful for any corporation of this State owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

Corporate powers.

§ 2. Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

Not authorized to construct railroad in any other locality.

§ 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

CHAP. 140, LAWS OF 1882.

AN ACT authorizing individuals, companies, associations and private corporations to construct and operate private railroads in certain cases.

Lawful to build railroads on or across highway; proviso as to consents to be obtained; act not to apply to villages and cities; must not interfere with or obstruct the public use of any highway.

SECTION 1. It shall be lawful for any individual company, association or private corporation to build and operate solely for the purpose of conducting the business of such individual, company, association or corporation, a railroad on or across any highway; provided that consent in writing, and under seal, of the owners of all lands on which any such railroad may be built, abutting a highway, be first obtained; and provided further, that the consent in writing of the supervisor of the town in which any railroad proposed to be built under this act is located be also first obtained; and provided further, that this act shall not apply to any city or village; and provided further, that no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or interfere with or obstruct the public use of any highway, or any highway intersecting the same.

CHAP. 582, LAWS OF 1880.

AN ACT to provide for excavating and tunneling and bridging for transportation purposes within villages and cities of this State.

When necessary to build road under ground or under water, company may enter upon and acquire title to lands, may construct masonry foundations, etc.; tunnel to be built so as to leave surface of ground firm and safe; when consent of owners must be obtained; in case owners do not consent general term of Supreme Court may appoint commissioners to determine whether road ought to be built; proviso as to connection with other roads in cities and villages.

SECTION 1. Whenever according to the route and plans adopted by any railroad company heretofore or hereafter formed under any special act of the Legislature of this State, or under chapter 140 of the Laws of 1880, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and all acts supplementary thereto or amendatory thereof for the building of its railroad, it shall be necessary or proper to build said road, or any part of the same, under ground, or to tunnel or bridge any river or waters, it shall be lawful for said company to enter upon and acquire title to and use such lands under water and uplands, except on or along any canals owned by the State, as shall be necessary for purposes herein mentioned; and they shall have the power to construct, erect and secure the necessary foundations and other structures which may be required for the operating of such road or connecting the same with another, and for maintaining the same, and purchase or acquire, in the manner now provided by law, such land, or rights or easements in land, along their said route upon, over, or beneath the surface thereof, as may be necessary for the building of their said road and making such connections; provided, however, that where said road runs underneath the ground at such depth as to enable said company to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof, firm and safe for buildings and other erections thereon, and, in case surface

excavations are made, as soon as can be done the surface shall be restored to its former condition, except so far as may be actually required for ventilation of the tunnel beneath the same, or access thereto; and provided, further, that whenever such road, or any part of the same, is intended to be built within the limits of any city or incorporated village of this State and to run by means of a tunnel underneath any of the streets, roads or public places thereof, the said company, before building the same underneath any of said streets; roads or public places, shall obtain the consent of the owners of one-half in value of the property bounded on the line, and the consent of the board of trustees of the village by resolution adopted at a regular meeting and entered on the records of said board, and of the proper authorities having control of said streets, roads or public places or in case such consent of the owners of property bounded on the line cannot be obtained, the general term of the Supreme Court in the district in which such city or village is situated may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be allowed to be built underneath said street, roads and public places, or any of them, and in what manner the same may be so built with the least damage to the surface and to the use of the surface by the public, and the determination by said commissioners, confirmed by the court, may be taken in lieu of the consent of said authorities and property owners. And provided further, that when any railroad company constructs, under this act, its railroad under any part or within the limits of any city or incorporated village of this State, subject to the provisions and limitations of this act, it shall be lawful for any other railroad company to connect its road therewith at such points or places as such company may elect, and all railroad companies constructing their road or roads under the provisions of this act shall be subject to all the provisions of an act entitled "An act to authorize the formation of railroad companies, and to regulate the same," passed April 2, 1850, and all acts supplementary thereto and amendatory thereof; and further, at such point or points, place or places, where such connection shall be made by connecting roads, the railroad companies owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots and other accommodations for handling passengers and freight as may be required for the convenience of the public.

Consolidation with other companies.

§ 2. Any such railroad company, the greater part of whose road-bed according to its said route and plan is to be below the surface of the ground, and whose road does not exceed three miles in length, may at any time after its said route shall have been adopted, and the map thereof shall have been filed as required by law, merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company organized under the laws of this or any other State, in the manner now provided by law for the consolidation of railroad companies, whenever the railroads of said companies so to be consolidated may together form a continuous line of railroad; provided such consolidation shall not prevent all connecting railroads from having equal rights of transit for their passengers and freight through the tunnel upon the same equitable terms.

Liability for damages.

§ 3. All railroad companies constructing any tunnel under this act shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary, in constructing any railroad authorized by this act through any city or incorporated village, to alter the position or course of any sewers or water or gas pipes, the same shall be done at the expense of such railroad company or companies, under the direction of the department or corporation having charge thereof, so as not to interfere with said work. In all cases the use of the streets and docks and lands beneath which said railroad is constructed, and on the route thereof, and the right of way beneath the same for the purpose of said railroad, shall be considered and is hereby declared to be a public use consistent with and one of the uses for which its streets, avenues and docks are publicly held.

Act not to be construed to allow building of surface or elevated roads.

§ 4. Nothing in this act shall be construed to authorize the building in any city or village of this State of any railroad to run upon the surface of any street or of any elevated railroad not now provided for by law. Nothing in this act shall be construed to repeal or modify any part of chapter 380 of the laws of 1878, entitled "An act relating to the public place or square known as Washington park in the city of New York," or to authorize the use or occupation by any company or companies of any public park or square in any city or village of this State for any of the purposes of this act, or to permit the construction of an open cut railroad in or through any street or public place in any such city or village, but every road constructed under the provisions of this act, in or through any such street or public place, shall be wholly underground, and constructed in a tunnel and not otherwise.

Repeal.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAP. 193, LAWS OF 1884.

AN ACT to enable steam railroad companies having a terminus at the harbor of New York, incorporated under the laws of the State of New York, to own boats and operate ferries.

Companies may operate ferries; restriction.

SECTION 1. Any steam railroad company, incorporated under the laws of this State, with a terminus in the harbor of New York, is hereby authorized and empowered to purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, to any point distant not more than ten miles from said terminus, but this act shall not be construed so as to affect the rights of the mayor, aldermen and commonalty of the cities of New York or Brooklyn.

CHAP. 125, LAWS OF 1858.

AN ACT in relation to sleeping cars on railroads.

Extra fare may be charged; patentee may place car on road with permission.

SECTION 1. Any patentee of a sleeping car, or his legal representative, may place his car upon any railroad of this State, with the assent of the company owning such road. Such patentee or his legal representative, may charge for the use of said car, in all cases, to each passenger occupying the same, forty cents, which sum shall entitle such passenger to the use of a berth for 100 miles; and the said patentee, or his legal representative, may charge at and after the rate of three mills for every additional mile, but in no case shall the charge exceed eighty cents.

Other cars to be provided.

§ 2. The railroad companies permitting the use of such cars shall, nevertheless, keep sufficient first-class cars of other kinds for the convenient use and occupation of all passengers not wishing to use a sleeping car. And the tickets used for the use of the sleeping cars shall have plainly written or printed thereon, "sleeping car," and all persons using a sleeping car shall be furnished with such tickets.

Railroad company not to be interested.

§ 3. No railroad corporation shall be interested in the additional sum paid for the use of berths in sleeping cars, pursuant to the provisions of this act.

Railroad company to be liable for injuries.

§ 4. Nothing in this act contained shall be so construed as to exonerate any railroad company from the payment of damages for injuries in the same way and to the same extent they would be required to do by law if such cars were owned and provided by the company.

CHAP. 273, LAWS OF 1882.

AN ACT to extend the operation and effect of chapter 40 of the Laws of 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," and of the several acts supplementary thereto and amendatory thereof.

Corporators ; purpose.

SECTION 1. Any three or more persons may organize themselves into a corporation in the manner specified and required in and by chapter 40, Laws of 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," for the purpose of purchasing, acquiring, building upon and improving real estate for union railway depots, to be leased and occupied by any railroad company or companies owning, leasing or operating a railroad within this State. The corporations so formed shall be subject to all the privileges and obligations of the act aforesaid, and all acts amendatory thereof, or supplementary thereto, and shall have power to take and hold by purchase, contract or lease, and convey such real estate as shall be necessary to carry out the objects of said corporation.

Railroad corporation may take and hold stock.

§ 2. Any railroad corporation, created under and by the laws of this State or of any adjoining State, is hereby authorized to subscribe for, take and hold the stock of corporations created under and by virtue of this act in such amounts as the directors of the said subscribing corporation may, from time to time, deem best for its interests.

Directors may make rules and regulations.

§ 3. The directors of any corporation, organized under and in pursuance of this act may, from time to time, make such just, proper and needful rules and regulations for the use of the union depot or depots owned or acquired by it as to the said directors, or a majority of them, may, from time to time, seem proper.

CHAP. 462, LAWS OF 1888.

AN ACT to authorize the formation of elevated tramway corporations and to regulate the same.

Association, how formed ; articles, where to be filed ; powers and privileges.

SECTION 1. Any number of persons, not less than thirteen, may form a company for the purpose of constructing, maintaining and operating an elevated tramway, constructed of poles, piers, wire, rods, ropes, bars or chains, for the transportation of freight in suspended buckets, cars or other receptacles for hire; and for that purpose may make and sign articles of association, in which shall be stated the name of the company, the number of years the same is to continue, the places from and to which the said tramway is to be constructed, maintained and operated; the length of said tramway as near as may be; the name of each county in this State through or in which it is made or intended to be made; the amount of the capital stock of the company, and the number of shares of which said capital stock shall consist, and the names and places of residence of the directors of the company, which shall not be less than three, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence and the number of shares of stock he agrees to take in said company. Such articles of association, when properly made and executed, may be filed in the office of the Secretary of State, who shall indorse thereon the day they are filed, and record the

same in a book provided for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title three of chapter eighteen of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title. *

Articles, when to be evidence of incorporation.

§ 2. A copy of any articles of association, filed and recorded in pursuance of this act, or of the record thereof, certified to be a copy by the Secretary of State, or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Capital stock.

§ 3. When such articles of association are so filed and recorded, the directors therein named may, in case the whole of the capital stock is not before subscribed, take and receive subscriptions to fill up the capital stock of the company in such places and after giving such notice and on such terms as they may deem expedient.

Board of directors and officers, how chosen or appointed.

§ 4. There shall be a board of three directors of every corporation formed under this act, to manage its affairs, and said directors shall be chosen annually by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation; and they may and shall continue to be directors until others are elected in their places. The directors shall appoint one of their number president; they may also appoint a treasurer and a secretary, and fix their salaries.

Stock, personal property; how transferred.

§ 5. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company.

Powers of the corporation.

§ 6. Every corporation formed under this act shall have power and authority:

1. To cause such examination and surveys, for its proposed tramway, to be made as may be necessary to the selection of the most advantageous route, and for such purposes, by its officers and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be done thereto.

2. To lay out its tramway and to construct the same as hereby provided.

Title to real estate, how acquired.

§ 7. In case any company formed under this act is unable to agree for the purchase, use or lease of any real estate required for the purposes of its incorporation, it shall have the right to acquire title in fee to the same, in the manner and by the proceedings provided by law for acquiring title to lands for railroad use by railroad corporations, under the provisions of chapter one hundred and forty of the Laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and the several acts amending the same, supplemental thereto, so far as the same are applicable.

Restrictions as to crossings.

§ 8. Whenever such tramway, constructed by a company formed under this act, shall cross a railroad, a highway, turnpike, plankroad or canal, such tramway shall be so constructed as not to interfere with the free use of the said railroad, highway, turnpike, plankroad or canal for the purposes for which they were intended.

Erection of stations, fixtures, etc.

§ 9. Every corporation formed under this act shall have power and authority to erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and transaction of its business.

CHAP. 468, LAWS OF 1881.

AN ACT to authorize the formation of corporations for the purpose of acquiring, constructing and operating railroads in foreign countries.

Corporators and corporate objects.

SECTION 1. Any number of persons, not less than ten, a majority of whom shall be inhabitants of this State, may form a company for the purpose of constructing, maintaining and operating in any foreign country a railroad or railroads for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any railroad or railroads, already constructed in whole or in part, for the like public use, with power to construct, maintain and operate in connection with such railroad or railroads a line or lines of telegraph, and such lines of steamboats or sailing vessels as may be proper or convenient for use in connection therewith; and for that purpose may make and sign articles of association in the form provided by section two of this act; and upon complying with the provisions of the said section shall, with their associates and successors, be and remain a corporation for the purposes aforesaid, with the powers given by this act and by the laws of this State.

Articles of association to be approved by the Governor, etc.; form of certificate.

§ 2. The articles of association, mentioned in the preceding section, shall state the name of the company; the number of years the same is to continue, not exceeding the term of one hundred years; as far as practicable the places from and to which the said line or lines shall be constructed, maintained and operated; the amount of the capital stock of the company and the number of shares of which such capital stock shall consist, and the names and places of residence of not less than seven persons, who shall act as a board of directors for the management of the affairs of the company for the first year and until others are chosen in their places. Each subscriber of such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. The said articles of association shall, after the approval, by the Governor, of the same, be filed in the office of the Secretary of State, who, upon the payment to him of a fee of \$50, shall indorse thereon the date they are filed and record the same in a book to be provided by him for that purpose, and shall issue a certificate substantially in the following form:

STATE OF NEW YORK:

Be it known that whereas (names of the subscribers to the articles of association) have associated themselves with the intention of forming a corporation under the name of the (name of corporation) for the purpose of locating, constructing or acquiring, maintaining and operating a railroad or railroads (and telegraph) (and shipping lines) (description of the roads, etc., as in the articles of association), and have complied with the statutes of this State in such cases made and provided; now, therefore, I (name of secretary), Secretary of State of the State of New York, do hereby certify that the persons aforesaid, their associates and successors, are legally established as a corporation under the name of (name of corporation) with all the powers and privileges and subject to all the duties, liabilities and restrictions set forth in an act of the Legislature of the State of New York, entitled "An act . . . passed the day of in the year eighteen hundred and eighty-one."

In witness I have hereunto subscribed my official signature and affixed the seal of this State, this day of in the year

.....
Secretary of State.

Certificate to be recorded.

§ 3. The certificate executed as provided in the last section shall be recorded with the articles of association, and the original certificate, or a duly certified copy of the record thereof, shall be conclusive evidence of the establishment of the corporation at the date of such certificate.

Board of directors.

§ 4. The government and direction of the affairs of every corporation formed under this act shall be vested in its board of directors, who shall hold their offices for one year and until others are elected in their places. In case of a vacancy occurring in such board of directors by death, resignation or otherwise, the remaining members of the board may fill such vacancy. The board of directors shall have power to make, and from time to time to amend the by-laws of the company, and may, by such by-laws, provide that less than a majority of the board shall constitute a quorum, and may delegate any and all of the powers of the board of directors to an executive committee during the interval between the meetings of the board. The directors shall elect one of their number to be president of their board and of the corporation, and may elect such other officers as shall be provided by the by-laws.

Corporate powers.

§ 5. Every corporation formed under this act shall, in addition to the powers conferred on corporations under the laws of this State, have the following powers:

1. To expend such sums of money from its treasury as the directors shall deem proper, in making preliminary examinations and surveys for its proposed railroad or railroads, line or lines of telegraphs, and of steamboats or sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions, and privileges as below named.

§ 2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted or conceded to such company, and to hold the same under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its articles of association, and to take and convey persons and property on their said transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor, regulating the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, in accordance with the laws of the place or country where the same are situated.

4. To take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary or convenient for the construction, maintenance and accommodation of its said lines, and to sell and convey, or to mortgage, or to lease such real estate or other property, so acquired in foreign countries; but such corporations shall be subject to such duties, liabilities and restrictions as to the transfer of its property by deed, mortgage, lease or otherwise in foreign countries, as may be fixed by the country in which the same may be located.

5. To purchase, hold and use such real estate and other property in this State as may be necessary for the conduct of its business, provided that such company shall not hold real estate in this State exceeding in value the sum of \$1,000,000.

6. To acquire, by purchase or otherwise, any railroad or railroads, or line or lines of telegraph constructed or in process of construction in any foreign country or countries, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and also to mortgage or to sell and convey to any person or persons or any corporation or corporations created by this or any other State, or any foreign government, the whole or any part of the railroad or railroads, line or lines of telegraph, steamboats, sailing vessels, grants, concessions, fran-

chises, rights, privileges, immunities, and other property of any sort or description held or owned, or to be acquired by it; provided, however, that the powers of sale in this clause granted shall only be exercised by a majority of the entire board of directors of said corporation, with the concurrence, in writing, of the holders of two-thirds in amount of the capital stock thereof. (*Added by chap. 369, Laws of 1885.*)

When company may proceed to organize.

§ 6. Upon the issue of the certificate named in section two, any corporation formed under the provisions of this act may proceed to organize, and for that purpose the first meeting of such corporation shall be called by a notice signed by a majority of the directors named in such articles, stating the time, place and purpose of such meeting, a copy of which notice shall, at least five days before the day appointed for such meeting, be delivered personally to each subscriber, or left at his usual place of business or residence, or deposited in the post-office prepaid and directed to him at his last known post-office address. There shall be recorded upon the minutes of the corporation an affidavit of such service of the said notice.

When to open subscription books.

§ 7. When any corporation formed under this act shall have been organized, the board of directors for the time being of such company may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company in such places and after giving such notices as they may deem expedient, and may continue to receive such subscription until the whole capital stock is subscribed. At the time of making subscriptions in pursuance of the provisions of this section, every subscriber shall pay to the directors ten per centum of the amount subscribed by him in money, and no such subscription shall be received or taken without such payment.

Payment of subscriptions to stock.

§ 8. The board of directors for the time being of any corporation formed under this act may require the subscribers to the capital stock of the company to pay the amounts by them respectively subscribed, and in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installments as required by resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have given a notice in writing to be served upon him personally or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited to the use of the company, which notice shall be served as aforesaid at least thirty days previous to the day upon which such payment is required to be made.

Principal office, etc.; annual meeting; number of directors to be chosen.

§ 9. Every corporation formed under this act shall maintain its principal office within this State, and shall there have during business hours an officer or agent upon whom service of process may be made, and shall hold in this State at least one meeting of its stockholders in each year, for the choice of directors. Such meeting shall be known as the annual meeting, and shall be held at such time and place as shall be established by the by-laws of such company. At such meeting the stockholders shall fix the number of directors for the ensuing year, which number shall not be less than seven, and in the absence of any other direction by the stockholders, seven shall be chosen.

Meeting of stockholders, etc.

§ 10. At all meetings of the stockholders of any corporation formed under this act, each stockholder shall be entitled to one vote personally or by proxy on every share held by him thirty days previous to such election. The inspectors of each election shall be appointed by the board of directors

for the time being, or if no such appointment be made by the board, then by the president. No person shall be elected a director, or continue to be such director, unless he shall be a stockholder, owning stock absolute in his own right, and at every election of directors the books and papers of such company shall be exhibited to the meeting, if a majority in amount of the stockholders present shall require it.

Reduction or increase of capital stock ; amended articles of association:

§ 11. Any corporation formed under this act may, from time to time, at any regular or special meeting of the board of directors, reduce the amount of the capital stock or increase the same, or may otherwise alter and amend its articles of association, provided, in either case, that the consent in writing of the stockholders owning two-thirds of the capital stock of the company shall have been first obtained to such increase or diminution of the capital stock, or to such alteration of the articles of association. If any increase or reduction of the capital stock is made, or any other amendment made to the articles of association, a certificate of the fact, signed by the president and secretary of the corporation, shall, within thirty days thereafter, be filed in the office of the Secretary of State. The directors of any corporation organized under this act, in whose original certificate of incorporation any informality may exist, are hereby authorized to make and file amended articles of association to conform to the provisions of this act, and upon making and filing such amended articles of association, such corporation shall, for all purposes, be deemed and taken to be a corporation from the time of the filing of the original articles.

Stock to be personal estate.

§ 12. The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company; but no share shall be transferable until all previous calls thereon shall have been fully paid in, and it shall not be lawful for such company to use its funds in the purchase of any stock of its own or any other corporation, except so far as the same may be agreed upon in its articles of association.

Subject to taxation.

§ 13. All corporations formed under the provisions of this act shall be subject to taxation upon the amount of the real or personal property owned by such corporations within this State.

CHAP. 361, LAWS OF 1883.

AN ACT to amend chapter 119 of the Laws of 1875, entitled "An act to amend chapter 146 of the Laws of 1872, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof.'"

Corporations may acquire and hold real estate in other States and foreign countries.

SECTION 1. Section one of chapter one hundred and nineteen of the Laws of eighteen hundred and seventy-five, entitled "An act to amend chapter one hundred and forty-six of the Laws of eighteen hundred and seventy-two, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof,'" is hereby amended so as to read as follows:

§ 1. Section one of chapter one hundred and forty-six of the Laws of eighteen hundred and seventy-two, entitled "An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof," is hereby amended as follows:

§ 1. It shall be lawful for any corporation organized under the laws of this State, and transacting business in it and other States, or foreign countries, except savings banks, to acquire, hold and convey in such States or foreign countries, with the consent thereof, such real estate as shall be requisite for such corporation, in the convenient transaction of

its business, and to invest its funds in the stocks, bonds or securities of other corporations owning lands situated in this State or such States, provided that loans shall not be made on any stocks upon which dividends shall not have been declared continuously for three years, immediately before such loans are made; and provided further that such stocks shall be continuously of a market value twenty per cent greater than the amount loaned or continued thereon.

Repeal.

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 450, LAWS OF 1887.*

AN ACT extending to corporations organized under the laws of other States, and doing business within this State, the right to hold, purchase and convey real estate.

SECTION 1. It shall be lawful for any corporation duly organized under the laws of any other State of the United States of America, doing business in this State, to hold and purchase such real estate or interest in real estate within this State as is or shall be necessary for the use and corporate purposes of such corporation in the transaction of its business within this State, and to convey the same by deed or otherwise in the same manner as though such corporation had been organized under the laws of and located within this State.

CHAP. 322, LAWS OF 1870.

AN ACT to authorize corporations to change their names.

Corporation may apply for change of its name.

SECTION 1. Any incorporation, incorporated company, society or association organized under the laws of this State, excepting banks, banking associations, trust companies, life, health, accident, marine and fire insurance companies, may apply at any special term of the supreme court sitting in the county in which shall be situated its chief business office, for an order to authorize it to assume any other corporate name. (*Thus amended by Laws of 1876, chap. 280.*)

Form of petition; notice of application, how published; of what facts court must be satisfied.

§ 2. Such application shall be by petition, which shall set forth the grounds of the application, and shall be verified by the chief officer of the corporation. Notice of such application shall be published for six weeks in the State paper and in a newspaper of every county in which such corporation shall have a business office, or, if it have no business office, of the county in which its principal corporate property is situated, such newspaper to be one of those designated to publish the session laws; and it must appear to the satisfaction of the court that such notice has been so published, and that the application is made in pursuance of a resolution of the directors, trustees or other managers of the corporation applying.

Power of court to make order; copy of order, where to be filed; same to be published.

§ 3. If the court to which such application is made shall be satisfied, by such petition, so verified, or by other evidence, that there is no reasonable objection to such corporation changing its name, it may make an order authorizing it to assume the prescribed new corporate name. A copy of said order shall be filed in the office of the Secretary of State and with the county clerk of every county in which said corporation has a business office, or, if it have no business office, of the county in which its principal corporate property is situated, and be published at least once in each week

*This act seems broad enough by its term to cover railroad corporations, but there may be some doubt whether such was the intent of the Legislature.—*R. H. Commissioner.*

for four weeks in some newspaper in every county where such corporation has a business office, or if it have no business office, in the county in which its principal corporate property is situated, such newspaper to be designated by the court.

Change of corporate name, when to take effect.

§ 4. When the requirements of this act shall have been complied with, the corporation applying for a change of name may, from and after the day specified in the order of the court, be known by and use the new corporate name designated in the order of the court.

Change of name not to affect pending suits, etc.; obligations and actions, how enforced or continued.

§ 5. No suit or legal proceeding commenced by or in behalf of or against any corporation shall abate by reason of a change of its corporate name made as herein authorized. Such change of the corporate name of the said corporation or company shall in no way affect the rights or liabilities of said corporation or company. All obligations of said company or corporation may be enforced against said corporation or company in the changed name, and all actions and proceedings commenced and pending against said corporation or company at the time said corporate name is changed shall be continued in the name in which said action or proceedings were commenced, or the court may, on the application of either party, allow the action or proceeding to be continued in the corporate name to which said corporation or company has been changed.

CHAP. 378, LAWS OF 1883.

AN ACT in relation to receivers of corporations.

Application for appointment of receiver, where made.

SECTION 1. Every application hereafter made for the appointment of a receiver of a corporation shall be made at a special term of the court held in and for the judicial district in which the principal business office of the corporation was located at the commencement of the action wherein such receiver is appointed, or in and for a county adjoining such district, and any order appointing a receiver, otherwise made, shall be void.

Compensation.

§ 2. Every receiver shall be allowed to receive, as compensation for his services as such receiver, five per centum for the first \$100,000 received and paid out, and two and a half per centum on all sums received and paid out in excess of the said \$100,000. But no receiver shall be allowed or shall receive, from such per centages or otherwise, for his said services for any one year, any greater sum or compensation than \$12,000, nor for any period less than one year more than at the rate of \$12,000 per year, provided that where more than one receiver shall be appointed, the compensation shall be divided between such receivers. (*Thus amended, chap. 275, Laws of 1886.*)

Order appointing receiver to designate place of deposit.

§ 3. All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the Attorney-General.

Duties of receiver.

§ 4. It shall be the duty of every receiver of an insurance, banking or railroad corporation, or trust company, to present every six months to the special term of the Supreme Court, held in the judicial district wherein the place of trial or venue of the action or special proceeding in which he was appointed may then be, on the first day of its first sitting, after the expiration of said six months, and to file a copy of the same, if a receiver

of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance, and in each case with the Attorney-General, an account exhibiting in detail the receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any costs, fees or allowance until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court by an order of the court duly entered; and any such order shall be the subject of review by the general term and the Court of Appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account, as aforesaid, the Attorney-General shall be given eight days' notice in writing, and the Attorney-General shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by chap. 40, Laws of 1885.*)

Intervenor to pay his own legal expenses; no allowance to be made for costs to attorney.

§ 5. In case of the intervention of any policy-holder or depositor, by permission of the court, such policy-holder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policy-holder or depositor.

Receiver to close up affairs within one year.

§ 6. The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act, unless the court, upon application by said receiver, and upon due notice to the Attorney-General, shall give additional time for that purpose.

Attorney-General may apply to have receiver removed; appeal.

§ 7. The Attorney-General may, at any time he deems that the interests of the stockholders, creditors, policy-holders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the Supreme Court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

Copies of all papers to be served on Attorney-General.

§ 8. A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purpose, shall, in all cases, be served on the Attorney-General, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order, unless the Attorney-General shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the Attorney-General, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the Attorney-General.

Where applications under this act to be made; venue changed.

§ 9. All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the insolvent corpora-

tion was located; and the venue of all actions or proceedings now pending, not in the judicial district where the principal office of the insolvent corporation was located, are hereby changed and transferred to the county and judicial district where such principal office was located.

Preference on calendar.

§ 10. All actions or other legal proceedings and appeals therefrom, or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

Repeal.

§ 11. All acts or parts of acts inconsistent herewith are hereby repealed.

CHAP. 285, LAWS OF 1884.

AN ACT to provide for the transfer of securities and property by bankrupt corporations to the receivers of such corporations, and for the transfer by the Superintendent of the Insurance Department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such Superintendent by such company for the security of policy-holders.

Where receivers have or shall be appointed for any corporation other than insurance companies on application by Attorney-General, property to vest in receiver; proviso.

SECTION 1. In all cases where receivers have been or shall be appointed for any corporation of this State other than an insurance company, on application by the Attorney-General, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in and held by such receiver; provided, however, that such transfer shall only be made when directed by an order of the Supreme Court, due notice of the application for such order having been made on the Attorney-General, and the custodian of the funds, securities or property.

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CHAP. 376, LAWS OF 1885.

AN ACT to provide for the payment of wages to employees, operatives and laborers of domestic corporations, other than insurance and moneyed corporations, of which a receiver shall be appointed.

Wages of employees to be preferred.

SECTION 1. Where a receiver of a corporation created or organized under the laws of this State and doing business therein, other than insurance and moneyed corporations, shall be appointed, the wages of the employees, operatives and laborers thereof shall be preferred to every other debt or claim against any such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come to his hands.

CHAP. 310, LAWS OF 1886.

AN ACT to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment.

Duty of Attorney-General.

SECTION 1. Whenever any corporation organized under the laws of this State shall be annulled and dissolved by an act of the Legislature, it shall

be the duty of the Attorney-General immediately thereafter to bring a suit to wind up and finally settle and adjust the affairs of such annulled and dissolved corporation.

Suit, where to be brought.

§ 2. Such suit shall be brought in the Supreme Court in the name of the people of the State, in any county which the Attorney-General may select. The president, or vice-president, or secretary, or treasurer of such dissolved corporation, who may have been in office at the time of the dissolution thereof, shall be named, as such officer, as defendant in such suit, and the summons and complaint therein shall be served upon him. If, at the time of such annulment and dissolution, there shall not be one of the above designated officers of such corporation, then such suit shall be brought against and the summons and complaint therein served upon any one of the persons who were last acting as directors of such corporation.

Court to appoint receiver.

§ 3. It shall be the duty of the special term of the Supreme Court in the county designated in such summons and complaint, or of any judge of said court who resides in the judicial department in which such county is situated, upon the presentation of a certified copy of the act of the Legislature annulling and dissolving a corporation, and of the summons and complaint founded thereon, immediately to appoint a receiver of the assets and property of such dissolved corporation; and the person so appointed shall be both the temporary and permanent receiver thereof, and shall give a bond with sureties, to be approved by said court or such judge thereof, to the people of the State in the penalty of not less than \$10,000, conditioned for the faithful discharge of his duties as such receiver, and for his due accounting for, and paying over all moneys and property which may come to his hands as such receiver. No one of the officers, directors or stockholders of such corporation shall be appointed such receiver thereof.

Receiver to make inventory.

§ 4. Such receiver shall, immediately after his appointment and the approval of his bond, cause an inventory of all the property of such dissolved corporation to be taken and filed in the office of the clerk of the county in which such action is pending, and for the purpose of ascertaining the nature, extent and location of such property, the said receiver shall have power to compel the attendance of witnesses, as hereinafter provided, and all evidence taken by or before said receiver in relation to such property shall be filed by him in the office of such county clerk.

Notice to creditors; powers and duties of receiver; creditors to present claims.

§ 5. The said receiver shall, immediately after his appointment, publish in two newspapers to be designated by said court, or such judge thereof, daily for one week, and for such longer time, not exceeding one month, as the said court or such judge thereof may by order designate, a notice to all creditors of such dissolved corporation to present their claims and demands against, and all evidences of indebtedness of such dissolved corporation, to such receiver at a time and place to be designated in such notice. Such receiver is hereby authorized to examine on oath any of such creditors, or claimants, or other witnesses, as to any and all matters pertaining to any claim or demand or evidence of indebtedness so presented. At the expiration of ten days from the date specified in such notice, or within such further time as may be allowed by said court or such judge thereof, the said receiver shall make a list of all the claims presented to or proved before him, in which list he shall specify the amount, origin and true consideration of each claim so presented to or proved before him, and the name of the person in whose behalf the same is presented or proved, and the date when such claimant became the true owner thereof. Such list when so completed shall be verified by such receiver, and shall thereupon be filed, together with such evidence as may have been taken by him, in the office of the said county clerk. The said receiver shall, immediately after such filing, publish a notice daily for

fourteen days in two newspapers to be designated by said court, or such judge thereof, stating that such list will be presented to such court, or to a judge thereof, residing in such county, on a day and at a place to be designated in such notice, and the said court or such judge thereof will then and there be asked for an order directing the sale at public auction of all the property specified in such inventory. Any creditor or stockholder may appear and be heard at such time and place. It shall be the duty of said court, or of such judge thereof, to whom such list shall be presented, to examine the same, together with such evidence as the receiver shall have taken, and to reject all claims, demands and evidences of indebtedness which were not legally incurred or created by said corporation, or which were in excess of its powers, or which are for any reason shown to be illegal; and no claim or demand shall be allowed for any greater amount than the money value of the consideration therefor, unless the said court or judge shall find and decide from the evidence taken by and before the receiver, that the person professing to own such claim does in truth own the same by reason of having taken a negotiable instrument or paper before the act dissolving and annulling the corporation alleged to be bound by such instrument or paper, and also before such instrument or paper was by its terms due, and that the same was taken for value paid, and parted with in good faith before said act of dissolution, and without knowledge or notice of any defect, want or deficiency of previous consideration, or other equity, off-set or defense originally attaching to such instrument or paper, or to the claim or demand upon which the same are founded. Such examination and rejection shall be made by such court or such judge thereof, and not by any referee.

When claim of creditor is debarred; right of creditor to appeal; sale of property; allowance to receiver; distribution of assets.

§ 6. All creditors whose claims shall not have been presented as above provided shall be debarred from participating in the avails of the sale of the property described in said inventory. Any creditor whose claim may have been rejected, and who shall have appealed, may apply to said court or such judge thereof for an order that a pro rata amount of the avails of such sale which would have appertained to the claim of such creditor, had not the same been rejected, may be retained in court to abide the result of his appeal, and said court, or such judge thereof, shall have discretion to grant the same. Any claimant feeling aggrieved by such rejection may appeal therefrom to the general term and to the Court of Appeals, in the manner now provided by law for such appeals from orders in civil actions, but neither of such appeals shall stay the proceedings of such receiver or court, or judge thereof, or a sale of such property as herein provided for. The amount of all claims and demands so rejected by said court or such judge shall be deducted from the total amount of claims and demands so filed by the said receiver, and an entry of such rejection shall be made upon said list by said court or such judge, and thereupon the said court or such judge shall by order, reciting the proceedings direct the immediate sale by said receiver, at public auction, at a time and place and in the manner, and after such notice as may be provided in said order, of all the property in said inventory specified, to such person, firm or corporation as shall bid the highest sum or amount therefor. The receiver shall report to said court or such judge thereof, the name of the highest bidder, the amount bid, and thereupon said court or such judge thereof shall by order forthwith direct the said receiver by proper written instrument to convey and transfer all of the property described in said inventory, and offered for sale at said auction, to said highest bidder, who on receiving the same shall pay to the receiver the sum bid. The said court or such judge thereof, shall allow to the receiver two per cent upon the whole amount received by him from the sale of the property described in said inventory for his compensation as such receiver, and also his disbursements, including witness' fees, and the service of subpoenas, and to the Attorney-General, and to such other counsel as the receiver may find it necessary to employ, a reasonable counsel fee. The residue of the amount in the hands of the receiver shall be by him distributed among the owners of the claims in said list, which have been allowed subject to the deductions above provided for in case of an appeal, pro rata, or in full if such

residue shall be sufficient therefor, and the receipts of such owners therefor shall be taken upon such list of claims. The balance of such residue, if any, shall be distributed among the lawful stockholders of such corporation in proportion to their interest therein.

Proceedings not to be stayed.

§ 7. No issue raised by answer, or demurrer, or otherwise to the complaint hereinbefore provided for shall stay the proceedings of the receiver, or court, or a judge thereof.

Discharge of receiver.

§ 8. The said receiver after such payment may apply to said court, or a judge thereof for his final discharge, and if it shall appear that the said receiver has in all things fulfilled his duty in the premises, the said court or judge shall grant such final discharge, and said receiver, until so discharged, may as such receiver sue for and collect all debts due, and demands owing to such corporation.

Subpoenas, by whom issued; receiver may administer oaths; false swearing, perjury.

§ 9. It shall be the duty of the clerk of the county in which such suit is brought, to issue, upon the request of the receiver, subpoenas to compel the attendance of witnesses to enable him to ascertain the nature, extent and location of the property of said corporation, and to give evidence concerning any claim which may be presented by any creditor against the estate of such corporation, which subpoenas shall be served in like manner as in civil actions, and the fees of the witness shall be the same as are now established by law in such actions. The receiver shall have full power and authority to administer oaths to all such witnesses and to any creditor of such dissolved corporation, and to examine them concerning the property of such dissolved corporation, and as to the claims presented against it. Disobedience to such subpoenas shall be a contempt of court, and shall be punished in like manner as other contempts of court are now punishable. Willful false swearing by any witness or creditor in any such examination shall be deemed perjury, and shall be punishable as such in like manner as if committed by a witness on a trial of a civil action.

Leave to sue receiver, how and where obtainable.

§ 10. All applications for leave to sue such receiver and all applications for injunctions to restrain his proceedings, shall be made only to the Supreme Court in the county in which such action was brought, and shall not be made to any other court, or to the Supreme Court in any other county, and shall not be granted except upon eight days' notice to the Attorney-General of the time and place of making such application. In any action hereafter brought or now pending by the Attorney-General, to close up, determine, or settle the affairs of any corporation dissolved by legislative enactment, the judgment or determination of the Supreme Court at General Term may be reviewed upon appeal to the Court of Appeals, as now provided by law, whether the judgment rendered in the case be interlocutory or final. (*Thus amended, chap. 601, Laws of 1887.*)

Repeal, etc.

§ 11. This act shall take effect immediately, and all acts and parts of acts inconsistent therewith are hereby repealed.

CHAP. 133, LAWS OF 1847:

AN ACT authorizing the incorporation of rural cemetery associations.

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No street, road, avenue or thoroughfare to be laid out through a cemetery.

§ 10. The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the pur-

poses mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessment, and shall not be liable to be sold on execution, or be applied in payment of debts from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the Legislature of the State.

CHAP. 403, LAWS OF 1886.

AN ACT to protect the Chautauqua Assembly Grounds from railroads.

SECTION 1. It shall not be lawful for any railroad or railway company or corporation now existing, or hereafter organized under the laws of this State, or otherwise, to build, construct or operate any railway or railroad in, upon, over or through the grounds, lands or premises now owned by the Chautauqua Assembly corporation, in the town and county of Chautauqua, without first procuring the consent in writing of a majority of the board of trustees or directors of said Chautauqua Assembly corporation in favor thereof.

CHAP. 300, LAWS OF 1835.

AN ACT to enlarge the powers of commissioners of highways.

Lawful for commissioners of highways, having supervision thereof to give written consent for construction across road or highway.

SECTION 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, or a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be so restored to its former state as not to have impaired its usefulness.

CHAP. 62, LAWS OF 1853.

AN ACT to regulate the construction of roads and streets across railroad tracks.

Laying out streets or highways across railroad tracks.

SECTION 1. It shall be lawful for the authorities of any city, village or town in this State, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

Railroad corporations to cause street laid out across their track to be taken at most convenient place for public travel.

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavations and other work to be done on their road for that purpose; and all the provisions of the act,

passed April 2, 1850, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

Penalty for neglect or refusal.

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of \$20 for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work cannot be performed within the time limited by this act.

CHAP. 255, LAWS OF 1855.

AN ACT to enlarge the powers and duties of commissioners of highways.

Commissioners empowered to bring action against any railroad corporation to sustain rights of the public in and to any highway; to enforce any duty enjoined upon a railroad corporation; may maintain action for damages.

SECTION 1. The commissioner or commissioners of highways in each of the towns of this State are hereby empowered to bring any action against any railroad corporation that may be necessary or proper to sustain the rights of the public in and to any highway in such town, and to enforce the performance of any duty enjoined upon any railroad corporation in relation to any highway in the town of which they are commissioners, and to maintain an action for damages or expenses which any town may sustain or may have sustained, or may be put to or may have been put to, in consequence of any act or omission of any such corporation in violation of any law in relation to such highway.

Construction of act.

§ 2. Nothing in this act shall be construed as in any manner impairing the right of any person or officer to bring any action now authorized by law.

CHAP 198, LAWS OF 1876.

AN ACT to amend chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same."

(Section 1 amends section 18 of the General Railroad Act.)

Notice when the land required forms part of street.

§ 2. Whenever any land required by a railroad company for the purposes of its road is contained in, or forms a part of any street or avenue in any city or village in which the owners of adjoining lands on the line of such street or avenue claim a right of property or the fee thereof, in such case the notice to be given of the application for the appointment of commissioners under the special proceedings under the act to acquire title to such land, as well as the notice of hearing before such commissioners, shall be served by the publication of the said notice twice each week, for three weeks, in at least two newspapers published in the county in which such city or village is located, to be designated by the court to which the said application is to be made.

CHAP. 510, LAWS OF 1880.

AN ACT to regulate voting by stock and bondholders of railroad corporations.**Inspectors of election to be sworn.**

SECTION 1. Before entering upon his duties each inspector of election at a meeting of the stockholders of any railroad company of this State, for the purpose of electing directors thereof, or for any other purpose, shall take and subscribe before some officer authorized to administer oaths, an oath or affirmation that he will well and truly do and perform the duties of the office of an inspector at such election, according to the best of his ability, which oath or affirmation shall be immediately filed in the office of the clerk of the county in which such election shall be held, together with a certificate of the result of the vote taken at such meeting or election.

Proxies; stockholders prohibited from selling vote or proxy; form of oath; false swearing; perjury; penalty.

§ 2. It shall not be lawful for any person to vote, or to issue a proxy to any other person or persons to vote at any meeting of stockholders or bondholders, or of stockholders and bondholders of any railroad corporation in this State for the election of directors, or for any other purpose, upon any stock or bonds where the certificates for said stock or the said bonds shall not be in the possession or under the control of the person on whose behalf the vote is to be given, and such last mentioned person shall have ceased to retain the title to the stock represented by such certificates or the said bonds as owner in his own right or in his capacity of executor, administrator, trustee, committee, guardian, or otherwise, notwithstanding said stock or bonds may still stand in his name on the books of said corporation. No person having the right to vote upon stock or bonds shall sell his vote or issue a proxy to vote upon such stock or bonds to any person for any sum of money, or any thing of value whatever. Any person offering to vote upon stock or bonds registered or standing in his name shall, if required by any inspector of election, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that in voting at this election I have not, either directly or impliedly, received any promise or any sum of money or any thing of value whatever, to influence the giving of my vote or votes at this election; and that I have not sold or otherwise disposed of my interest in or title to any shares or bonds in respect to which I offer to vote at this election, but that all such shares and bonds still remain in my possession or subject to my control." And any person offering to vote as agent, attorney or proxy for any other person shall, if required by inspector of election, take and subscribe the following oath (or affirmation): "I do solemnly swear (or affirm) that the title to the stock or bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose name they now stand, and that the said persons still retain control of the said shares and bonds, and that I have not, either directly or indirectly or impliedly, given any promise or any sum of money, or any thing of value whatever to induce the giving of the authority to vote upon such stock or bonds to me." The inspectors at any such election are authorized to administer the aforesaid oath or affirmation, and said oath and said proxies shall be filed in the office of said corporation. Any person who knowingly or willfully shall swear or affirm falsely in taking the oath or affirmation prescribed by this act shall be guilty of perjury. Any person violating any of the other provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding one year, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

CHAP. 223, LAWS OF 1884.

AN ACT to regulate the rights and duties of officers and directors of railroad corporations.

Officers and directors prohibited from selling or agreeing to sell stock "short."

SECTION 1. No officer or director of any railroad corporation shall sell or agree to sell or be directly or indirectly interested in the sale or agreement to sell, any shares of the stock of the corporation of which he is such officer or director, unless at the time of sale or agreement to sell, he is the actual owner of such shares.

Violation a misdemeanor; punishment.

§ 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

CHAP. 489, LAWS OF 1895.

AN ACT to protect stockholders of corporations from the wrongdoings of directors in certain cases.

When directors refuse or neglect to adopt by-laws to enable stockholders to hold annual election; acts, etc., of directors holding over, void.

SECTION 1. Whenever the directors named in the articles of association of any corporation organized under any general law of this State neglect or refuse during the first year of the corporate existence to adopt the by-law required by law to enable stockholders to hold the annual election for directors, and where by such neglect the said directors hold over and continue to be directors after the expiration of the first year of the corporate existence, all acts and proceedings of the directors when so holding over, done for and in the name of the company designed to charge upon the company any liability or obligation for the past services of any director so holding over, or for the past services of any officer, or attorney, or counsel appointed by them, and such liability or obligation shall be considered fraudulent and void.

Cases in which any stockholder may apply for stay of proceedings in action, etc.

§ 2. When directors of any such association or corporation are so holding over by their wrongful neglect of duty beyond the term for which they were appointed or elected, and an action has been brought against the company by the procurement of any of them to enforce any claim or obligation declared void by the preceding section, and such action is in the interest or for the benefit of any director or directors so holding over, and the company has by their connivance made default in such action, or consented to the validity of the claim or obligation so sought to be enforced against the company, any stockholder of the company may apply to the Supreme Court, by affidavit, setting forth the facts, for a stay of the proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, the Supreme Court may stay such proceedings or set aside and vacate the same, or grant such other relief as to the court may seem proper, and which will not injuriously affect an innocent party, who without notice of such wrongdoings and for a valuable consideration has acquired rights under such proceedings.

Election of directors; place of meeting, etc.

§ 3. When the directors of any association or corporation shall neglect or have neglected to adopt a by-law providing for the annual election of directors for sixty days after the first year of the corporate existence, the stockholders thereof may elect directors in the place of the directors holding over in the manner following: Stockholders entitled to vote for direc-

tors of such association or corporation as prescribed by section eight, chapter eighteen, title four, part first of the Revised Statutes, may meet after previous notice in writing given by them to all the stockholders, at least fifteen days before such meeting, of the time and place when and where such meeting will be held, for the purpose of electing directors; and it shall be the duty of any officer or other person having charge of the book or books of the association or corporation containing the names of the stockholders, to allow the same to be examined by any stockholder aforesaid, or his attorney, for the purpose of giving such notice. The place of such meeting shall be the principal office of such company, or in case it has no such office, at the place in this State where its principal business has been transacted, or if access to such office or place is denied, then at some other place to be designated in such notice in the city, town or village where the principal office of such company is or was last located. At such meeting such stockholders shall elect two or more inspectors of election. If at such meeting a majority of the votes cast on stock entitled to be voted on for directors, as prescribed by said section eight, chapter eighteen, title four, part one of the Revised Statutes, shall be voted upon and cast for one ticket for directors, the persons so named and voted for as directors shall thereupon be the directors of such association or corporation until the next annual election and until others are elected and qualified in their stead and without reference to the time when they became stockholders. In the absence at such meeting of the books of the association or corporation, showing who were and are stockholders of the association or corporation, each stockholder, in order to be entitled to vote at such election, shall make or present a statement in writing to be signed and verified by him under oath before a notary public or other person authorized to administer oaths, setting forth the number of shares of the stock of such company standing in his name, on its books and upon which he is entitled to vote as prescribed by the section of the Revised Statutes heretofore referred to, and which is then owned by him and standing on the books of the company in his name, and if known to him he shall also state the whole number of shares of stock issued by said association or corporation at the time when the election ought to have been held, and on filing such affidavit or verified statement with the inspectors, he shall be entitled to vote on such stock so appearing to be owned by him and standing on the books of the company in his name. The inspectors shall return and file such verified statements, together with a certificate of the results of the election, which shall be verified by them, with the clerk of the county in which such election is held, and thereupon the persons so elected shall be the directors of such association or corporation as aforesaid.

Stockholders may adopt by-laws.

§ 4. The stockholders aforesaid at the meeting authorized by the preceding section, in addition to electing directors as aforesaid, may adopt a by-law providing for the future annual meetings and election of directors; such by-laws shall be adopted in the same manner and by the same number of votes as is above prescribed for the election of directors, and shall have the same effect as if such by-law had been adopted by the directors of the company.

CHAP. 586, LAWS OF 1875.

AN ACT to define the powers and privileges of railroad corporations and to repeal sections 3 and 4 of chapter 278 of the Laws of 1868, entitled "An act in relation to the Erie, New York Central, Hudson River and Harlem Railway Companies."

Postponement of annual election.

SECTION 1. When the time for holding the annual election for the directors of any railroad company is now fixed by any law, charter or by-law for a time within three months before the thirtieth day of September in any year, the directors of such company may by resolution, to be published at least thirty days before the time now established for such elec-

tion, postpone such election to a time not more than two months after the thirtieth of September then next ensuing, and thereafter the annual election of such company shall be held in each year on the day so designated, and the term of office of the directors of such company, in office when such change is made, shall be extended to the day thus fixed for the next election of directors, and the election of their successors.

Company may purchase lands and stock in other States for the purpose of securing a permanent supply of fuel.

§ 2. Any railroad company organized under the laws of this State may purchase, hold and convey lands, or any interests in lands, in any other State through which any part of its railroad is operated, or may purchase, hold and transfer stock in any company organized in another State, owning lands as aforesaid, for the purpose of securing for such railroad in this State a permanent supply of fuel for its use.

CHAP. 317, LAWS OF 1881.

AN ACT to authorize a change, in certain cases, of the time for holding elections in railroad companies.

Companies may change time for holding elections.

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may by a vote of a majority of the stock, either in person or by proxy, thereof to that effect, and filing in the office of the Secretary of State a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April; provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

CHAP. 498, LAWS OF 1885.

AN ACT to authorize a change in certain cases of the time and place for holding elections of railroad companies.

Stockholders may change time for holding election of directors.

SECTION 1. Any railroad company organized under the laws of this State and doing business therein may change the time and place of its annual election for directors of such company by a vote of its stockholders, representing a majority of all the stock of the company, and by filing in the office of the Secretary of State a copy of such proceedings and vote certified by the secretary of the company under its corporate seal; but such change of place shall only be made to an incorporated village or city in the State of New York in which the executive office of such company shall be located; and the change of the time for holding such election shall only be made from the date fixed by its charter or by-laws to some day in the month of December preceding the date or time at which such election would otherwise have been held.

CHAP. 430, LAWS OF 1845.

AN ACT in relation to the contracts of railroads companies.

Limitation to amount of debt.

SECTION 1. No debt or debts shall be contracted or incurred by or on behalf of any incorporated railroad company beyond or exceeding its available means in its possession, under its control and belonging to it, including its *bona fide* and available stock subscriptions and exclusive of its real estate, at the time the same shall be contracted or incurred, to pay and discharge the same and all its debts previously contracted or incurred; and every officer, agent or stockholder of said company who shall knowingly assent to, or have any agency in contracting or incurring any debt, in violation of the provisions of this section, shall be personally and indi-

vidually liable to pay such debt; and shall also be liable to arrest and imprisonment in any action for the same, and on any execution issued on any judgment obtained for the same; in the same manner as defendants in actions of trespass are now liable, and shall also be deemed guilty of a misdemeanor; but the debts contracted in violation of the provisions of this section shall not be deemed invalid as against said company by reason thereof; provided that nothing herein contained shall apply to any loan which any company shall be expressly authorized by law to make over and above the available means aforesaid.

CHAP. 383, LAWS OF 1883.

AN ACT entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock, and providing for the record thereof."

Conditional sale, lease or loan of equipment and rolling stock to be invalid as to judgment creditors and purchasers, without notice, unless evidenced in writing and recorded.

SECTION 1. Whenever any railroad equipment and rolling stock shall hereafter be sold, leased or loaned on the condition that the title to the same, notwithstanding the possession and use of the same by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of the installments, amounts or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, but also providing that title thereto shall pass to the vendee, lessee or bailee on full payment therefor as aforesaid, such contract shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless

1. The same shall be evidenced by writing, duly acknowledged before some person authorized by law to take acknowledgments of deeds.

2. Such writing shall be recorded in the same book as mortgages are recorded, in the office of the clerk of the county in which is located the principal office or place of business of such vendee, lessee or bailee within the State, or in the office of the register in counties where there is a register's office.

Name of vendor, etc., to be on locomotive or car, etc.

3. Each locomotive or car so sold, leased or loaned shall have the name of the vendor, lessor or bailor, or the assignee of such vendor, lessor or bailor, plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

Not to invalidate any contract heretofore made if recorded within ninety days.

§ 2. This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section, but the same shall be and remain valid if recorded within ninety days from the date hereof.

CHAP. 488, LAWS OF 1885.

AN ACT to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

Amending section 2, chapter 315, Laws 1884.

SECTION 1. Section 2 of chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," is hereby amended so as to read as follows:

Instruments, where to be filed.

§ 2. The instruments mentioned in the preceding section shall be filed in the several towns and cities of this State, where the person to whom

such property is so contracted to be sold, if a resident of this State, shall reside at the time of the execution thereof; and if not a resident, then in the city or town where the property so contracted to be sold shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of the city, and in the county of Kings in the office of the register of said county. In the several cities of this State other than the cities of New York and Brooklyn, and in the several towns of this State in which a county clerk's office is kept, in such office; and in each of the other towns in this State, in the office of the town clerk thereof. If the conditional vendee be a railroad corporation, the instrument mentioned in the preceding section shall be filed in the office of the clerk of each county through which its railroad is located, or, in counties where there is a register, in the office of the register, and such filing shall be deemed sufficient for all the purposes of this act. Such registers and clerks are hereby required to file all such instruments aforesaid, presented to them respectively for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in their respective offices, to be kept there for the inspection of all persons interested.

CHAP. 225, LAWS OF 1886.

AN ACT further to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

SECTION 1. Section seven of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," as the same was amended by chapter four hundred and eighty-eight of the Laws of eighteen hundred and eighty-five, and by chapter four hundred and ninety-five of the Laws of eighteen hundred and eighty-six, is hereby further amended so as to read as follows:

§ 7. * * * This act shall not apply to railroad equipment or rolling-stock sold, leased or loaned, under a contract which has been or must be recorded pursuant to the provisions of chapter three hundred and eighty-three of the Laws of eighteen hundred and eighty-three, entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock, and providing for the record thereof."

CHAP. 779, LAWS OF 1868.

AN ACT in relation to mortgages executed by railroad companies.

Chattel mortgages.

SECTION 1. It shall not be necessary to file as a chattel mortgage, any mortgage which has been, or shall hereafter be, executed by any railroad company upon real and personal property, and which has been or shall be recorded as a mortgage of real estate in each county in or through which the railroad runs.

CHAP. 392, LAWS OF 1875.

AN ACT for the better security of railroad employees for labor performed.

Lien for labor upon rolling stock, track, etc.

SECTION 1. Any person who shall hereafter perform any labor for a railroad corporation shall, on filing with the county clerk of any county in which such railroad corporation is situated, or through which the road of such corporation passes, the notice prescribed by the second section of this act, have a lien for the value of such labor upon such railroad track, roll-

ing stock and appurtenances, and upon the land upon which such railroad track and appurtenances are situated, to the extent of the right, title and interest of such railroad corporation in the property existing at the time of filing the said notice.

When notice to be filed; to be entered by county clerk on "lien docket;" fee.

§ 2. Within thirty days after the performance and completion of such labor, such person shall file a notice, in writing, with the county clerk of the county where the property is located, specifying the amount of claim, and the corporation against whom the claim is made. The county clerk shall enter the particulars of such notice in a book to be kept in his office, to be called the "lien docket," with the name of claimant, amount claimed, the name of such corporation against which such claim is made, and the date of the filing of the notice, hour and minute. A fee of ten cents shall be paid to said clerk on filing said lien, and said notice, when so filed, shall thereafter operate as an incumbrance upon said property.

Value of labor to be proved on trial.

§ 3. Any person performing labor, in availing himself of the provisions of this act, shall, upon the trial, or at the assessment of damages, produce evidence to establish the value of such labor, and that the same was performed for such railroad corporation.

Lien, how enforced.

§ 4. Any laborer, performing any work, or assignee thereof, may, after such labor is performed, and the service of the notice required by the first section of this act, bring an action in any of the courts of the county in which said property is situated to enforce said lien, requiring such railroad corporation to appear, by attorney, within thirty days after such service and answer the same, or, in default thereof, the claimant may take judgment for the amount of claim and costs.

Lien to continue one year.

§ 5. Every lien created under the provisions of this act shall continue until the expiration of one year, unless sooner discharged by the court or some legal act of the claimant in the proceedings; but when a judgment is entered therein, and docketed with the county clerk within said year, it shall be a lien upon the real property of the railroad corporation against whom it is obtained to the extent that other judgments are now made a lien thereon.

Priority of liens.

§ 6. The liens created and established by virtue of the provisions of this act shall be paid and settled according to the priority of the notice filed with the county clerk, as directed by the second section hereof.

Liens, how discharged.

§ 7. All liens created by this act may be discharged as follows:

1. By filing with the county clerk a certificate of the claimant, or his successors in interest, acknowledged or proved in the same manner as a conveyance of real estate, stating that the lien has been paid or discharged; or

2. By depositing with the court or clerk of the court a sum of money equal to double the amount claimed, which money shall be thereupon held subject to the determination of the lien; or

3. By an entry of the county clerk, made in the book of liens, that the proceedings on the part of the claimant have been dismissed by the court in which it is brought, or a judgment rendered against the said claimant; or

4. By an affidavit of the service of a notice from such railroad corporation, or its attorney, to the claimant, requiring such claimant to commence an action for the enforcement of said lien within twenty days after service of said notice, and the failure of said claimant to commence an action as aforesaid.

Personal liability of stockholders; notice; time for commencing action.

§ 8. Each and all the stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days service, or less than ninety days service, performed for such corporation, but shall not be liable to an action therefor, before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days service, or less than ninety days service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder, against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

CHAP. 529, LAWS OF 1870.

AN ACT in relation to mechanics' liens.

Provisions of lien law extended to railroad bridges and trestle work.

SECTION 1. The provisions of the law relating to mechanics' liens heretofore passed shall apply to bridges and trestle work erected for railroads and materials furnished therefor, and labor performed in constructing said bridges, trestle work and other structures connected therewith; and the time within which said liens may be filed shall be extended to ninety days from the time when the last work shall have been performed on said bridges, trestle work and structures connected therewith, or the time from which said materials shall have been delivered. This act shall apply to all uncompleted work commenced prior to the passage of this act.

CHAP. 63, LAWS OF 1887.

AN ACT to provide for the amicable adjustment of grievances and disputes that may arise between employer and employees and to authorize the creation of a State Board of Mediation and Arbitration.

* * * * *

Act applicable to all corporations.

§ 13. Whenever the term "employer" or "employers" is used in this act, it shall be held to include "firm," "joint stock association," "company," or "corporation," as fully as if each of the last-named terms was expressed in each place.

CHAP. 381, LAWS OF 1889.

AN ACT to provide for the cash payment of wages by corporations
Wages payable only in cash.

SECTION 1. Every manufacturing, mining or quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone corporation, and every incorporated express company, and water company not municipal, shall pay to each and every employee engaged in its business the wages earned by such employee in cash; and it shall not be lawful for any of the above-named companies or corporations to pay their employees in their own scrip or that of others commonly known as store money orders.

Penalty for violation of act.

§ 2. Any corporation violating any of the provisions of this act shall be punished by a fine not exceeding fifty, and not less than ten dollars, on each complaint on which it is convicted, provided complaint for such violation is made within thirty days from the date thereof.

Act, when to go into operation.

§ 3. This act shall take effect upon the first day of July, one thousand eight hundred and eighty-nine.

As to the general subject of taxation of real estate, etc., see chapter 13, part 1, of Revised Statutes. Also, chap. 411, Laws of 1885.

CHAP. 110. LAWS OF 1858.

AN ACT to repeal parts of an act to amend chapter 13, part 1, of the Revised Statutes, entitled of the assessment and collection of taxes, and chapter 176 of the Laws of 1851, passed April 15, 1857.

Repeal.

SECTION 1. Sections 1 and 6 of chapter 536 of the Laws of 1857, are repealed, and that part of section 2 of the same chapter, which requires special notice to be given in case an assessment-roll includes property belonging to a railroad corporation, is also repealed.

CHAP. 506, LAWS OF 1870.

AN ACT to facilitate the payment of taxes by railroad companies.

Annual statement to be delivered by clerks of the several boards of supervisors to county treasurer.

SECTION 1. It shall be the duty of the clerk of the board of supervisors of the several counties of this State (except New York and Kings counties), within five days after the making out or issuing of the annual tax warrants by the board of supervisors of their respective counties, to prepare and deliver to the county treasurer a statement showing the title of all railroad corporations in such county, as appears on the last assessment-roll of the towns or cities in such county, the valuation of the property, real and personal, of such corporation in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in their county.

Railroad companies may pay tax to county treasurer; fees of treasurer.

§ 2. Any railroad company heretofore organized under the laws of this State, or that may be hereafter organized, may, within thirty days after the receipt of such statement by the county treasurer, pay the amount of tax so assessed or levied on their property, with one per cent fees on said tax, to the county treasurer, who is hereby authorized and directed to receive such amounts and to give proper receipt therefor.

County treasurer to notify collector of non-payment of tax; duty of collector.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of the county treasurer to notify the collector of all towns or cities in their county in which said company is assessed, of such failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect said tax in the manner now provided by law, together with five per cent fees; but no town or city collector shall collect any tax levied or assessed upon the property of any railroad company in said county, by the supervisors of the county, until the receipt of such notice from the county treasurer.

County treasurer to credit taxes; collector to be credited with fees; surplus to be paid to supervisor.

§ 4. The several amounts of tax so received by the county treasurer, of and from railroad companies, shall be placed to the credit of the town or city for or on account of which the same was levied or assessed, and to the credit of the fund or funds to which the same is now or shall be hereafter pledged or appropriated by law, and the one per cent fees also paid shall be placed to the credit of the collector of said city or town; and in case such amounts shall exceed the sum due from said town or city, the surplus shall, on demand, be paid to the supervisor of said town or city, who shall receive, hold and disburse the same as if received from the collector of said town or city.

Railroad company may pay tax to collector; proviso.

§ 5. Nothing in this act shall be construed to prevent any railroad company from paying their tax to the collector of towns or cities as now provided by law; nor shall the provisions of this act be construed to repeal or in any manner interfere with the provisions of chapter 907 of the Session Laws of 1869.

CHAP. 361, LAWS OF 1881.

AN ACT to amend chapter 542 of the Laws of 1880, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations."

Certain officers of company to make annual report to Comptroller on or before fifteenth of November; where dividend not declared, stock to be estimated and declared; certificate to be sent Comptroller; appeals.

SECTION 1. Hereafter it shall be the duty of the president or treasurer of every association, corporation or joint-stock company liable to be taxed on its corporate franchise or business, as provided in section 3 of this act, to make report, in writing, to the Comptroller annually, on or before the fifteenth day of November, stating specifically the amount of capital paid in, the date, amount and rate per centum of each and every dividend declared by their respective corporations, joint-stock companies or associations during the year ending with the first day of said month. In all cases where any such corporation, joint stock company or association shall fail to make or declare any dividend upon either its common or preferred stock during the year ending as aforesaid, or in case the dividend or dividends made or declared upon either its common or preferred stock during the year ending as aforesaid shall amount to less than six per centum upon the par value of the said common or preferred stock, the treasurer and secretary thereof, after being duly sworn or affirmed to do and perform the same with fidelity, according to the best of their knowledge and belief, shall, between the first and fifteenth days of November in each year, in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of said common or preferred stock, estimate and appraise the capital stock of such company upon which no dividend has been made or declared, or upon the par value of which the dividend or dividends made or declared amounted to less than six per centum, at its actual value in cash—not less, however, than the average price which said stock sold for during said year, and when the same shall have been so truly estimated and appraised, they shall forthwith forward to the Comptroller a certificate thereof, accompanied by a copy of their said oath or affirmation, by them signed, and attested by the magistrate or other person qualified to administer the same, provided, that if the Comptroller is not satisfied with the valuation so made and returned, he is hereby authorized and empowered to make a valuation thereof, and to settle an account upon the valuation so made by him for the taxes, penalties and interest due the State thereon; and any association, corporation or joint-stock company dissatisfied with the account so settled may within ten days appeal therefrom to a board consisting of the Secretary of State, Attorney-General and State Treasurer, which board, on such appeal, shall affirm or correct the account so settled by the Comptroller, and the decision of said board shall be final; but such appeal shall not stay proceedings unless the full amount of the taxes, penalties and interest as due on said account, as settled by the Comptroller, be deposited with the State Treasurer.

Comptroller to add ten per cent in case of failure to make report; proviso.

§ 2. If the said officers of any such corporation, joint-stock company or association shall neglect or refuse to furnish the Comptroller, on or before the fifteenth day of November of each and every year, with the report aforesaid, or the certificate of appraisement and oath or affirmation, as the case may be, as required by the first section of this act, or to pay the tax imposed on such corporation, company or association within fifteen days after the first of January, as provided in the fourth section of this act, it shall be the duty of the Comptroller of the State to add ten per centum to the tax of said corporation, company or association for each and every year for which such report or certificate of appraisement and

oath or affirmation were not so furnished, or for which such tax shall not have been paid, which percentage shall be assessed and collected with the said tax in the usual manner of assessing and collecting such taxes; provided, that if said officers of any such corporation, joint-stock company or association shall intentionally fail to comply with the provisions of the first or fourth section of this act for one year, the Comptroller shall report the fact to the Governor, who, if he shall be made satisfied that such failure was intentional, shall thereupon direct the Attorney-General to take proceedings in the name of the people of this State, to declare the charter or privileges of said corporation, joint-stock company or association forfeited and at an end; and for such intentional failure duly found, the charter and privileges of every such corporation, company or association shall cease, end and be determined.

Annual tax; how computed.

§ 3. Every corporation, joint-stock company, or association whatever, now or hereafter incorporated, organized, or formed under, by, or pursuant to law in this State or in any other State or country, and doing business in this State, except only savings banks and institutions for savings, life insurance companies, banks, foreign insurance companies, manufacturing or mining corporations, or companies wholly engaged in carrying on manufacture, or mining ores within this State, and agricultural and horticultural societies or associations, which exceptions, however, shall not include gas companies, trust companies, electric or steam heating, lighting and power companies, shall be liable to and shall pay a tax, as a tax upon its franchise or business, into the State treasury annually, to be computed as follows: If the dividend or dividends made or declared by such corporation, joint-stock company or association during any year ending with the first day of November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividends so made or declared; or if no dividend be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of one and one-half mills upon each dollar of the valuation of the said capital stock made in accordance with the provisions of the first section of this act; and in case any such corporation, joint-stock company or association shall have more than one kind of capital stock, as, for instance, common and preferred stock, and upon one of said stocks a dividend or dividends amounting to six or more than six per centum upon the par value thereof has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter mill for each one per centum of dividend made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto tax shall be charged at the rate of one and one-half mills upon each dollar of a valuation made also in accordance with the provisions of this act, of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. (*Thus amended by chap. 353, Laws of 1889. See, also, chap. 193, Laws of 1889.*)

When payable.

§ 4. It shall be the duty of the treasurer or other officer having charge of any corporation, joint-stock company or association, upon which a tax is imposed by either of the preceding sections of this act, to transmit the amount of said tax to the treasury of the State within fifteen days after the first day of January in each and every year.

§ 5 relates only to insurance companies.

Tax on railroad, steamboat and other companies; rate of tax.

§ 6. In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company, and every other corporation, joint-stock company or association now or hereafter incor-

porated or organized by or under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country, and doing business in this State, and owning, operating or leasing to or from another corporation, joint-stock company or association, any railroad, canal, steamboat, ferry, express, navigation, pipe-line or transportation route or line or elevated railway, or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company incorporated under the laws of this or any other State, and doing business in this State, and every express company or association, palace car or sleeping car company or association incorporated or unincorporated, doing business in this State, shall pay to the State Treasurer for the use of the State, as a tax upon its corporate franchise or business in this State, a tax at the rate of five-tenths of one per centum upon the gross earnings in this State of said corporation or company or association, for tolls, transportation, telegraph, telephone or express business transacted in this state.

When payable ; report of gross earnings ; report for six months ending June 30, 1881 ; ten per cent to be added in case of neglect.

§ 7. The tax imposed under section 6 of this act shall, after the 1st day of August, 1881, be paid annually on the first day of August of each year. It shall be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller, on the first day of August in each year, a statement under oath or affirmation of the amount of the gross earnings of said associations, corporations or joint-stock companies derived from all sources during the year ending with the preceding thirtieth day of June, together with the amount of tax imposed thereon, by section 6. And it shall also be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller on the 1st day of August, 1881, a statement, under oath or affirmation, of the amount of the gross earnings of the said associations, corporations or joint-stock companies derived from all sources during the six months ending with the 30th day of June, 1881, together with the tax imposed thereon by section 6 of this act. And if any such corporation, joint-stock company or association shall neglect or refuse for a period of thirty days after any tax imposed by sections 6 or 7 of this act becomes due, to make returns or to pay the same, the amount thereof, with the addition of ten per centum thereto, shall be collected for the use of the State as other taxes are recoverable by law from such corporation, joint-stock company or association.

Exempt from taxation for State purposes ; proviso.

§ 8. The corporations, joint-stock companies and associations mentioned in this act as taxable shall hereafter be exempt from assessment and taxation for State purposes, except upon their real estate and as herein provided ; but they shall in all other respects be liable to assessment and taxation as heretofore.

Tax, application of.

§ 9. The taxes imposed by this act, and the revenue derived therefrom, shall be applicable to the payment of the ordinary and current expenses of the State, and if any corporation, joint-stock company, person, partnership or association shall neglect or refuse to pay any tax by this act required to be paid, the same may be sued for in the name of the people of the State, and recovered in any court of competent jurisdiction, in an action to be brought by the Attorney-General at the instance of the Comptroller.

Saving section.

§ 10. All obligations, liabilities and taxes heretofore incurred or imposed under said act, chapter 542 of Laws of 1880, are saved and shall be enforced as if the said act had not been hereby amended.

Amount of capital stock employed in this State to be basis of tax; if dissatisfied, Comptroller may fix amount.

§ 11. The amount of capital stock which shall be the basis for tax under the provisions of section three of this act, in the case of every corporation, joint-stock company and association liable to taxation thereunder, shall be the amount of capital stock employed within this State. In making to the Comptroller the report in writing or certificate of estimate and appraisal of the capital stock of such corporation, joint stock company or association provided for by the first section of this act, it shall be the duty of the president or treasurer thereof, as the case may be, to state specifically the amount of capital stock employed within this State, of such corporation, joint-stock company or association. Whenever the Comptroller is dissatisfied with such report or certificate of estimate and appraisal, as the case may be, of any corporation, joint-stock company or association whose capital is only partially employed within this State, he is authorized and empowered to ascertain, fix and determine the amount of capital employed within this State, and to settle an account for the taxes and penalties due the State thereon. (*Added by chap. 501, Laws of 1885.*)

In case of failure to make report, Comptroller may examine books and records, and make report.

§ 12. Whenever any corporation, joint-stock company or association liable to make reports or certificates of estimate and appraisal to the Comptroller, under any of the provisions of this act, shall neglect or refuse to make such report or reports within the time prescribed in this act, or shall make such report or certificate as shall be unsatisfactory to the Comptroller, the Comptroller is authorized to examine, or cause to be examined, the books and records of any such corporation, joint-stock company or association, and to fix and determine the amount of tax and penalty due in pursuance of the provisions of this act, either from the said books and records, or from any other data in his possession which shall be satisfactory to him, and to settle an account for said tax and penalty, together with the expenses of such examination, against said corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

Comptroller may issue subpoenas and examine witnesses; penalty for failure to obey subpoena.

§ 13. Whenever the Comptroller shall deem it necessary or important to examine any person as a witness upon any subject or matter relating to the amount of capital stock of such corporation, or to use, examine or inspect any book, account, voucher or document in possession of any officer of such corporation, or other person, or under his control, relating to such capital stock and tax, he shall have the power to issue a subpoena in proper form, commanding such person or officer to appear before him or some person designated as commissioner by him by an appointment in writing, filed in the office of such Comptroller, at a time and at the place where the principal office of such corporation is situated within this State in such subpoena specified, to be examined as a witness, and such subpoena may contain a clause requiring such person or officer to produce on such examination all books, papers and documents in his possession or under his control, relating to the capital stock of such corporation and the amount thereof employed within this State. Such subpoena shall be served upon the person named by showing him the original subpoena and delivering to and leaving with him at the same time a copy thereof. The Comptroller or the commissioner so designated by him as aforesaid may administer oaths to such persons as he may desire to examine, so brought before him by subpoena or otherwise, and examine them on oath in relation to any matter which may in any wise be material in determining the amount of the tax to be paid by any such corporation, joint-stock company or association as aforesaid. Whenever any person duly subpoenaed to appear and give evidence as aforesaid, or to produce any books and papers as hereinbefore provided, shall neglect or refuse to appear or to produce such books and papers according to the exigency of such subpoena, or shall refuse to testify before said Comptroller or the commissioner so designated by him, or

to answer any proper and pertinent question, he shall be deemed in contempt, and thereupon any justice of the Supreme Court of the judicial district within which the principal office of such corporation within this State is situated shall, upon the motion of the Comptroller, based upon affidavit showing the commission of the offense, either, first, make an order requiring the accused to show cause before him, at a time and place specified therein, why the accused should not be punished for the alleged offense; or, second, issue a warrant of attachment directed to the sheriff of a particular county, or generally directed to the sheriff of any county where the man may be found, commanding him to bring him before said justice either forthwith or at a time and place therein specified to answer for the alleged offense. On the return of said attachment and the production of the body of the defendant therein the said justice shall have jurisdiction in the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed and the same punishments inflicted as in the case of a witness subpoenaed to appear and give evidence as is prescribed in title 3, chapter 17 of the Code of Civil Procedure, in proceedings to punish a contempt of court other than a criminal contempt. (*Added by chap. 501, Laws of 1885.*)

Comptroller to settle and adjust all accounts against corporations, for taxes and penalties since May 12, 1882; proviso as to payments made before August 1, 1885.

§ 14. The Comptroller is hereby authorized and directed, upon application to him made by any corporation, joint-stock company or association, to make, settle and adjust all accounts against such corporation, joint-stock company or association, for all taxes and penalties arising under the third section of this act since the 12th day of May, A. D. 1882, by taking as a basis for taxation the capital employed within the State by such corporation, joint-stock company or association. Provided, however, that such corporation, joint-stock company or association shall not be entitled to the benefits of a settlement upon such basis unless it shall have secured such adjustment and paid into the treasury the full amount of the taxes so settled, before the 1st day of August, 1885, nor shall this section apply to the case of any tax for which suit shall have been heretofore brought by the Attorney-General, in which suit the trial has been commenced, or in which judgment shall have been entered heretofore for the people for the amount of said tax. Any corporation, joint-stock company or association whose capital has heretofore been only partially employed within this State, and which is now liable for taxes arising under the third section of this act since the 12th day of May, A. D. 1882, and which are still due and unpaid, may, at any time prior to the 1st day of August, 1885, pay to the State Treasurer, for the use of the State, in full discharge of the same, such sum of money as shall be fixed by the Comptroller as the tax due for the said period by the said corporation, joint-stock company or association, upon the basis of the capital employed within the State. Provided, that this section shall not apply to the case of any tax for which suit may have heretofore been brought by the Attorney-General, and for which judgment shall have been entered therein, or if in such suit trial has been commenced. (*Added by chap. 501, Laws of 1885.*)

Interest.

§ 15. All accounts hereafter settled by the Comptroller agreeably to the provisions of this act shall bear interest from a date thirty days after the sending of notice of settlement hereinafter provided for until full payment thereof shall be made. (*Added by chap. 501, Laws of 1885.*)

Comptroller to give notice before making settlement of taxes.

§ 16. It shall be the duty of the Comptroller after making with any partnership, corporation, joint-stock company or association liable to taxation under any of the provisions of this act, the settlement of such taxes, to forthwith send notice hereof, in writing, to such person, partnership, cor-

poration, joint-stock company or association, which notice may be sent by mail to the post-office address of such corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

Provisions in relation to review of Comptroller; determination by writ of certiorari.

§ 17. No writ of certiorari to review the determination and settlement of the comptroller as to the amount of capital used within the State by any corporation, joint-stock company or association, and as to the tax and penalty to be paid thereon, shall be granted, except application therefor be made within thirty days after service upon such corporation, joint-stock company or association by the comptroller of notice of such settlement. Nor shall any such writ be granted except the papers upon which motion therefor is to be made, including notice of motion, shall have been served upon the comptroller at least eight days before such motion, nor unless the corporation, joint-stock company or association applying for such writ shall, before making such motion, deposit with the state treasurer the full amount of taxes, penalties and charges so settled and adjusted by the comptroller, and file with him an undertaking in such amount and with sufficient sureties as shall be approved by one of the justices of the Supreme Court of this State, to the effect that if said writ be vacated and the determination of the comptroller sustained, the applicant for the writ will make payment of all costs and charges which may accrue against such applicant in the prosecution of such writ, including costs on all appeals. (*Added by chap. 501, Laws of 1885.*)

Comptroller may issue warrant for collection after thirty days.

§ 18. After the expiration of thirty days from the service by the comptroller of notice of settlement aforesaid, if no proceedings shall have been taken to review the same, as provided by this act, or if the deposit with the state treasurer of the amount of the said settlement, together with the undertaking, as provided for by this act, shall not then have been made, it shall be lawful for the comptroller to issue his warrant or warrants under his hand and seal of office directed to the sheriff of any county in this State, commanding him to levy upon and sell the goods and chatties, lands and tenements of the said corporation, joint-stock company or association found within said county, for the payment of the amount of said settlement, together with interest thereon and costs of executing said warrant, and to return the said warrant to the comptroller, and pay to the state treasurer the money which shall be collected by virtue thereof, by a certain time therein specified, not less than sixty days from the date of such warrant. Such warrant shall be a lien upon and shall bind the personal estate of the person, partnership, corporation, joint-stock company or association against whom it shall be issued, from the time an actual levy shall be made by virtue thereof, and the sheriff to whom such warrant shall be directed shall proceed upon the same in all respects with the like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments rendered by a court of record, and shall be entitled to the same fees and costs for his services in executing the same, to be collected in the same manner. (*Added by chap. 501, Laws of 1885.*)

Readjustment of accounts in cases of illegal payment of taxes.

§ 19. The comptroller may at any time revise and readjust any account theretofore settled against any person, association, corporation, or joint-stock company by himself or any preceding comptroller for taxes arising under this act or the act to which it is an amendment, whenever it shall be made to appear by evidence submitted to him that the same has been illegally paid or so made as to include taxes which could not have been lawfully demanded and shall resettle the same according to law and the facts and charge or credit, as the case may require, the difference, if any,

resulting from such revision and resettlement upon the current accounts of such person, association, corporation, or joint-stock company. (*Added by chap. 463, Laws of 1889.*)

Comptroller's action may be reviewed by certiorari; appeals; from determination.

§ 20. The action of the comptroller, upon any application made to him by any person or corporation for a revision and resettlement of accounts as provided in this act, may be reviewed, both upon the law and the facts upon certiorari by the Supreme Court at the instance either of the party making such application or of the attorney-general in the name and in behalf of the people of this State, and for that purpose the comptroller shall return to such certiorari the accounts and all the evidence submitted to him on such application, and, if the original or resettled accounts shall be found erroneous or illegal by this court, either in point of law or of fact, the said accounts shall be there corrected and restated by the said Supreme Court and from any such determination of the Supreme Court an appeal may be taken by either party to the Court of Appeals as in other cases. (*Added by chap. 463, Laws of 1889.*)

(The provisions of §§ 19 and 20 not to apply to any taxes heretofore paid by any person or corporation in pursuance of a judgment or order of a court or by virtue of any stipulation.)

CHAP. 143, LAWS OF 1886.

AN ACT to tax stock corporations for the privilege of organization.

State tax on capital stock.

SECTION 1. Every corporation, joint-stock company, or association, incorporated by or under any general or special law of this state, having capital stock divided into shares, shall pay to the state treasurer, for the use of the State, a tax of one-eighth of one per centum upon the amount of capital stock which said corporation, joint-stock company or association is authorized to have, and a like tax upon any subsequent increase thereof. The said tax shall be due and payable upon the incorporation of said corporation, joint-stock company or association or upon the increase of the capital thereof; and no such corporation, joint-stock company or association shall have or exercise any corporate powers until the said tax shall have been paid. And the secretary of state and any county clerk shall not file any certificate of incorporation or articles of association, or certify or give any certificate to any such corporation, joint-stock company or association, until he is satisfied that the said tax has been paid to the state treasurer. And no such company incorporated by any special act of the legislature shall go into operation, or exercise any corporate powers or privileges, until said tax has been paid as aforesaid. But this act shall not apply to literary, scientific, medical and religious corporations or corporations organized under the banking laws of this state or under chapter one hundred and twenty-two of the Laws of eighteen hundred and fifty-one, entitled "An act for incorporation of building, mutual loan and accumulation fund associations," and the acts amendatory thereof. (*Thus amended by chap. 284, Laws of 1887.*)

Applicable to general fund.

§ 2. The taxes imposed by this act and the revenue derived therefrom, shall be applicable to the general fund and for the payment of those claims and demands which shall constitute a lawful charge upon that fund.

CHAP. 266, LAWS OF 1886.

AN ACT to provide for the more certain recovery of State taxes from delinquent associations, corporations and joint-stock companies.

Recovery of delinquent taxes; provisions as to prosecution of suits for such taxes.

SECTION 1. For the better enforcement of chapter five hundred and forty-two of the Laws of eighteen hundred and eighty and the acts amendatory thereof, it shall be lawful for any person having knowledge of the evasion of taxation under said acts by any association, corporation or joint-stock company liable to taxation thereunder, to report such fact to the Comptroller, together with such information as may be in his possession as may lead to the recovery of such taxes from said association, corporation or joint-stock company, and whenever in the opinion of the Attorney-General or Comptroller the interests of the State require it, either of them is hereby authorized to employ such person so reporting such evasion to assist in the collection and preparation of evidence and in the prosecution and trial of suits for such taxes; and so much of the sum collected from such delinquent association, corporation or joint-stock company, by reason of such report or such service, as shall be agreed upon by such person and the Attorney-General or Comptroller as a compensation therefor, shall be paid to such person, provided that the sum so paid shall not exceed ten per centum of the amount so collected; and provided further, that nothing whatever shall be paid to such person for such purpose unless there shall be a recovery of taxes from such delinquent association, corporation or joint-stock company by reason of such report or such services.

CHAP. 575, LAWS OF 1881.

AN ACT to facilitate the payment of school taxes by railroad companies.

Duty of school collector to deliver to county treasurer certain statement; duty of county treasurer in the premises.

SECTION 1. It shall be the duty of the school collector in each school district in this State, except in the counties of New York, Kings and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment-roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended, Laws of 1885, chap. 533.*)

Time in which tax may be paid with one per cent fees.

§ 2. Any railroad company hereafter organized, or which may hereafter be organized, under the laws of this State, may, within ~~thirty~~

days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor.

If tax not paid within thirty days, duty of collector to collect; limitation.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

Tax to be placed to credit of school district; paid to collector on demand; fees to go to collector on demand.

§ 4. The several amounts of tax received by any county treasurer in this State under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

Tax may be paid to collector direct.

§ 5. Nothing in this act contained shall be construed to hinder, prevent, or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

CHAP. 694, LAWS OF 1867.

AN ACT in relation to the valuation of the property of railroad companies in school districts, for the purpose of taxation.

Duty of town assessors.

SECTION 1. It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment-list, to apportion the valuation of the property of each and every railroad, telegraph, telephone and pipe-line company as appears on such assessment-list, among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town. (*Thus amended by chap. 414, Laws of 1884.*)

Apportionment.

§ 2. Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each

district and the amount of the valuation of the property of each railroad, telegraph, telephone and pipe-line companies apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors, or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of each of said companies, on which all taxes against said companies in and for said districts shall be levied and assessed, until the next annual assessment and apportionment. (*Thus amended by chap. 414, Laws of 1884.*)

When assessors neglect to make apportionment.

§ 3. In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town, on the application of the trustees or board of education of any district, or of any railroad, telegraph, telephone and pipe-line company, to make such apportionment, in the same manner and with the like effect as if made by said assessors. (*Thus amended by chap. 340, Laws of 1885.*)

Town clerk to furnish certified statement when requested.

§ 4. The town clerk shall, whenever requested, furnish to the trustees or board of education of each district a certified statement of the amounts apportioned to each district, and the name of the company to which the same relates.

When alteration is made in school district.

§ 5. In case any alteration shall be made in any school district, affecting the property of any railroad, telegraph, telephone or pipe-line company the officer making such alteration shall, at the same time, determine what change in the valuation of the said property in such district would be just, on account of the alteration of district, and the valuation shall be accordingly changed. (*Thus amended by chap. 340, Laws of 1885.*)

CHAP. 344, LAWS OF 1877.

AN ACT to authorize railroad corporations to pay commutation money for highway labor to the commissioners of highways of town.

Railroad corporation may commute; money, how applied.

SECTION 1. Whenever any railroad corporation assessed in any town or road district for highway labor shall elect to commute therefor, as provided by law, such corporation shall pay the commutation money to the commissioner or commissioners of highways of such town, and such moneys shall be applied and expended in the improvement of roads and buildings and maintenance of bridges of such town. (*Thus amended, Laws of 1878, chap. 44.*)

Not applicable to incorporated villages when separate road district; proviso.

§ 2. This act shall not apply to incorporated villages which constitute a separate road district, nor shall it have the effect to repeal or modify chapter 66 of the Laws of 1872.

BONDING OF TOWNS, AND RAILROAD AID DEBTS.

Several statutes of this State relative to the bonding of towns, etc., are omitted because by article VIII, section 11 of the Constitution of the State of New York, adopted November 3, 1874, and November 4, 1884, they are practically abrogated, as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882.

Article VIII, Sec. 11, Constitution of the State of New York.

No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become directly or indirectly the owners of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

CHAP. 585, LAWS OF 1875.

AN ACT to provide for the sale of stock and bonds of bankrupt railroad companies by municipal corporations holding the same, and for the disposition of the proceeds of such stock or bonds.

Sale of stock or bonds authorized.

SECTION 1. Any municipal corporation within this State holding and owning any stock or mortgage bonds of any railroad company in this State which shall have been adjudicated bankrupt, or the property of which shall be in the possession of a receiver appointed under the laws of this State, or the railroad or other property of which shall have been sold, or shall have been deemed to be sold, by virtue of any decree of foreclosure of any mortgage executed by such railroad company, is hereby authorized to sell and dispose of such stock or mortgage bonds in the manner hereinafter provided.

When commissioners to give notice of sale; what notice to contain.

§ 2. The commissioner or commissioners of any municipal corporation within this State which shall have issued its bonds in aid of the construction of the railroad of any railroad company in this State within the provisions of section one of this act appointed to issue such bonds of any municipal corporation under any law of this State, or the successor or successors in office of any such commissioner or commissioners, on the application of the mayor and common council of any city, or of the board of trustees of any incorporated village, or of the supervisor of any town within this State, the bonds of which shall have been issued in aid of the construction of any such railroad, as aforesaid, shall forthwith publish a notice of the sale at public auction of the stock or mortgage bonds of any such railroad company held and owned by such municipal corporation as aforesaid, at such public place within the limits of such municipal corporation as such commissioner or commissioners may specify in such notice. The said notice shall specify the amount of such stock or bonds so held by said municipal corporation and the number of shares of such stock, and the amount of such bonds, respectively, and the name of the railroad company by which the same were issued, and shall be published in two newspapers published in the county wherein such railroad may be situated, or if it extends through or into more than one county, then in two newspapers published in each county wherein such railroad may be situated, at least once in each week after the first publication of such notice, until the day of sale, which shall be not less than ten nor more than twenty days after the first publication of the said notice.

Sale, how and when made.

§ 3. On the day and at the place of sale specified in the notice aforesaid, the said commissioner or commissioners shall sell at public auction, to the highest bidder for cash, all the stock or mortgage bonds of any such railroad company so held and owned by such municipal corporation as aforesaid, in such parcel or parcels as in their discretion shall be most advantageous to the said municipal corporation, and shall deliver the same to the purchaser or purchasers thereof, and shall execute to said purchaser or purchasers any transfer or assignment of such stock or bonds necessary to transfer the same; and thereupon the purchaser or purchasers of such stock or bonds shall be vested with all the right, title and interest of said municipal corporation, and of the said commissioner or commissioners in and to the stock or bonds so sold as aforesaid.

Proceeds of sale; disposition of.

§ 4. All moneys received by said commissioner or commissioners for any stock or mortgage bonds sold pursuant to the provisions of this act shall be immediately paid over to the treasurer or other officer of such municipal corporation having charge of its funds, in case of a town to the supervisor thereof for the use of such municipal corporation, and, after paying the expenses of such sale, shall be applied by such municipal cor-

poration to the payment and extinguishment of its bonds issued in aid of said railroad company, and to no other purpose whatever; provided, that in case the municipal bonds so issued shall have been all paid before such sale, or in case the moneys realized from such sale shall be more than sufficient to pay off the municipal bonds issued as aforesaid in aid of such railroad corporation then outstanding, the proceeds of such railroad stock or bonds, or any such balance thereof, shall be applied by such municipal corporation to the payment of such other debt thereof, or to defray such other lawful charge thereupon as the common council of any such city, or the board of trustees of any such incorporated village, or the qualified voters of any such town, in town meeting, may direct.

Repeal.

§ 5. All acts and parts of acts, so far as they are inconsistent herewith, are hereby repealed.

CHAP. 522, LAWS OF 1881.

AN ACT in relation to the bonded indebtedness of villages, cities, towns and counties in this State created in aid of railroads.

Present bonded indebtedness may be paid by issue of new bonds; proviso as to rate of interest; cancellation of bonds taken up; when new bonds to be payable.

SECTION 1. The present bonded indebtedness of any village, city, town or county in this State, including interest past due and unpaid, may be paid up or retired by the issue of new bonds for like amount by the board of trustees, mayor and common council, town board, board of supervisors or supervisor, or railroad commissioners, or officer or officers, now having in charge according to law the payment of interest and principal on bonds herein proposed to be paid and retired, respectively, of such village, city, town, or county; provided, however, that such new bonds shall be issued only when, existing bonds can be retired by the substitution therefor of such new bonds or can be paid up by money realized on the sale of new bonds; and provided further that such new bonds shall bear interest at a rate not exceeding five per cent per annum, payable semi-annually. All existing bonds taken up by the substitution of such new bonds or paid under the provisions of this act shall be immediately canceled, and a certificate executed by the officers issuing such new bonds shall be forthwith made and filed by them in the county clerk's office of the proper county, which shall state the amount of existing bonds so canceled and of new bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bonds so to be issued shall be made payable at any period or periods deemed advisable by the officers issuing the same, not less than two years or more than thirty years from their date; and shall bear date and draw interest from the date of the payment of existing bonds, or the receipt of money to pay existing bonds; and shall be issued in no case at less than for their par value. (*Thus amended, chap. 453, Laws of 1883.*)

New bonds to be valid; recital in same.

§ 2. The bonds issued under the provisions of this act when substituted or sold to retire existing bonds, by any authorized officers of any town, village, city or county, or their successors in office, shall be valid and binding on the town, village, city or county wherein they are issued, and such bonds shall contain a recital that they are issued under the provisions of this act, and such recital shall be conclusive evidence in any court of the validity of said bonds and the regularity of their issue.

New bonds exempt from taxation.

§ 3. All new bonds issued by any village, city, town or county in this State, under the provisions of this act, shall be exempt from taxation for town, county, municipal or State purposes until the period when they are made payable.

Commissioners, supervisors and financial officers required to report annually; to whom to report, and what.

§ 4. It shall be the duty of the railroad commissioners, supervisors and financial officers of towns, villages, cities and counties, having in charge the moneys received and collected, and responsible for the payment of the interest and principal due on bonds issued under this act, and they are hereby required to report annually to the board of supervisors of counties, the trustees of villages and the mayor and board of aldermen or common council of cities, as the case may be, as now required by law, the sum due and payable the succeeding year, both principal and interest on said bonds.

Tax to pay bonds.

§ 5. It shall be the duty of the boards of supervisors of counties, the trustees of villages, and the boards of aldermen, and the common councils of cities, and they are hereby required to levy and collect in each year upon the towns, villages, cities or counties severally obligated, moneys sufficient to pay such interest when and as it shall fall due, and the principal of such bonds when and as the same shall become due and payable.

CHAP. 316, LAWS OF 1886.

AN ACT in relation to the bonded indebtedness of villages, cities, towns and counties in this State, and to provide means for the payment and refunding thereof.

Bonded indebtedness, how paid up or retired; rate of interest on new bonds; old bonds to be canceled.

SECTION 1. The present bonded indebtedness of any village, city, town or county in this State, including interest past due and unpaid, may be paid up or retired by the issue of new bonds for like amounts by the board of trustees, mayor or common council, town board, board of supervisors or supervisor, or railroad commissioners or officer or officers now having in charge according to law the payment of interest or principal on bonds herein proposed to be paid or retired respectively of such village, city, town or county; provided, however, that such new bonds shall be issued only when existing bonds can be retired by the substitution therefor of such new bonds or can be paid up by money realized on the sale of such new bonds, but where the said bonded indebtedness shall become due within two years from the issue of the said new bonds, then such new bonds may be issued or sold to provide money in advance, with which to pay up such existing bonds, when they shall become due and payable; and provided further, that such new bonds shall bear interest at a rate not exceeding four per centum per annum, payable semi-annually or quarterly. All existing bonds taken up by the substitution of such new bonds, or paid under the provisions of this act, and all new bonds and coupons, when paid up as herein provided, shall be immediately canceled as now provided by law, and a certificate executed by the officers issuing such new bonds shall be forthwith made and filed by them in the county clerk's office of the proper county, which shall state the amount of existing bonds so canceled and of new bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bonds so to be issued shall be made payable at any period or periods deemed advisable by the officers issuing the same, not less than one year nor more than forty years from their date; and shall bear date and draw interest from the date of the payment of existing bonds, or the receipt of the money to pay existing bonds; and an amount not less than two per cent of the whole amount of said bonds so issued shall be made payable and shall be paid and retired, each and every year after the issue thereof, and said bonds shall be issued in no case at less than for their par value.

Validity.

§ 2. The bonds issued under the provisions of this act when submitted* or sold to retire existing bonds, by any authorized officers of any town, village, city or county, or their successors in office, shall be valid and binding on the town, village, city or county wherein they are issued, and such bonds shall contain a recital that they are issued under the provisions of this act, and such recital shall be conclusive evidence in any court of the validity of said bonds and the regularity of their issue.

Exempt from taxation.

§ 3. All new bonds issued by any village, city, town or county in this State, under the provisions of this act, shall be exempt from taxation for town, county, municipal or State purposes, until the period when they are made payable.

Duty of railroad commissioners.

§ 4. It shall be the duty of the railroad commissioners, supervisors and financial officers of towns, villages, cities and counties, having in charge the money received and collected, and responsible for the payment of the interest and principal due on bonds issued under this act, and they are hereby required to report annually to the board of supervisors of counties, the trustees of villages and the mayor and board of aldermen, or common council of cities as the case may be, as now required by law, the sum due and payable the succeeding year, both principal and interest, on said bonds.

Duty of boards of supervisors, common councils, etc.

§ 5. It shall be the duty of the boards of supervisors of counties, the trustees of villages, and the board of aldermen and the common council of cities, and they are hereby required to levy and collect in each year upon the towns, villages, cities or counties severally obligated, moneys sufficient to pay such interest when and as it shall fall due, and the principal of such bonds when and as the same shall become due and payable.

Commissioners to give bonds.

§ 6. Before the said commissioners or either of them shall enter upon the discharge of their duties under this act, they shall jointly and severally with two or more sureties execute to the supervisor of said town or city a bond in the penal sum equal to one-fourth the amount to be issued by said town or city under and by virtue of this act, conditioned for the faithful discharge of their duties as commissioners under this act and existing laws, and for the just and honest application by them of all moneys or bonds issued by them or coming into their hands as such commissioners. The sufficiency of said sureties shall be determined by the supervisor of said town or city, or the county judge of the county wherein said town is situated, or any justice of the Supreme Court, and shall be indorsed on said bonds. The said bonds shall immediately thereafter be deposited with the supervisor or supervisors of said town or city, to be collected by him or his successors in office for the use and benefit of said town or city, in case the said commissioners, or either of them, are guilty of such a breach of duty or malfeasance in office as to render said bonds collectible; and it is further provided, that any willful appropriation or embezzlement or wrongful conversion of any said town bonds, or the moneys arising from the same, or the moneys to be raised by a sale thereof, as provided by this act, or of moneys to be raised by tax as aforesaid to an amount exceeding \$1,000, shall be a felony punishable by imprisonment in the State prison for a term not exceeding ten years.

*So in original.

CHAP. 421, LAWS OF 1875.

AN ACT to authorize towns, cities and villages to pay their bonds, issued for railroad purposes, by exchanging therefor their railroad stock or bonds, and to exchange their stock of any railroad corporation for the bonds of such corporation.

Town, city or village may exchange its bonds for railroad bonds or stocks; cancellation of bonds.

SECTION 1. It shall be lawful for any town, city or village to exchange the bonds and stock of any railroad corporation for and in payment of the bonds of any such town, city or village, heretofore issued in aid of any such railroad corporation, and it shall be lawful for any town, city or village to exchange the stock of any railroad corporation for the bonds of such corporation; and such exchange may be made by the officers of such town, city or village having the lawful charge and custody of such railroad stock and bonds, but the same shall not be thus exchanged for less than the par value thereof; and when any such exchange shall be made, report thereof shall be made, by the officers making the same, to the then next meeting of the board of auditors of their town, the common council of their city, or the board of trustees of their village; and the town, city or village bonds obtained by such exchange shall thereupon be canceled.

CHAP. 124, LAWS OF 1883.

AN ACT to amend chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads."

Indebtedness may be paid by issue of new bonds; proviso; existing bonds to be canceled; construction of act; new bonds, when to be made payable.

SECTION 1. Section 1 of chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads," is hereby amended so as to read as follows:

§ 1. The present bonded indebtedness of any village, city, town or county in this State, which was created to aid in the construction of any railroad, or which was created in the renewal or extension of any such indebtedness, or of any part thereof, may be paid up or retired, in whole or in part, whether due or to fall due by the issue of a new bond or bonds by the board of trustees, mayor and common council, town board, board of supervisors, or supervisor or railroad commissioners, or officer or officers now having in charge, according to law, the payment of interest and principal on bonds herein proposed to be paid and retired, respectively, of such village, city, town or county; provided, however, that such new bond or bonds shall be issued only when the existing bond or bonds can be retired by the substitution therefor of such new bond or bonds; or can be paid up by money realized on the sale of such new bond or bonds; and, provided, further, that such new bond or bonds shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually. Any existing bond or bonds taken up by the substitution of such new bond or bonds, or paid under the provisions of this act, shall be immediately canceled, and a certificate executed officially by the officer or officers issuing such new bond or bonds shall be forthwith made and filed by him or them in the county clerk's office of the proper county, which shall state the amount of the existing bond or bonds so canceled, and of the new bond or bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bond or bonds issued under the provisions of this act shall be made payable at any period deemed advisable by the officer

or officers issuing the same, not less than two years nor more than thirty years from their date, and shall bear date and draw interest from the date of the payment of the existing bond or bonds, or the receipt of money to pay the existing bonds or bonds, and shall be issued in no case at less than their par value. (*See, however, section 1, chap. 522, Laws of 1881, as amended by chap. 453, Laws of 1883, page 457 hereof.*)

CHAP. 278, LAWS OF 1886.

AN ACT to authorize railroad commissioners to issue town bonds in place of bonds lost or destroyed.

New bonds may be issued in lieu of those lost or destroyed; bond of indemnity requisite.

SECTION 1. The railroad commissioners of any of the towns in this State, which have heretofore issued its bonds in aid of the construction of any railroad, which bonds, or any of which, shall have been lost or destroyed before the same shall have become due, are hereby authorized to issue new bonds of such town in the place and stead thereof, under their hand and seal, for the amount, at the same rate of interest, and to become due at the same time as such lost or destroyed bond or bonds, and deliver the same to the owner of such lost or destroyed bond or bonds, upon such owner furnishing to such commissioners satisfactory proof, by affidavit, of such ownership, and of the loss or destruction of such bond or bonds, and filing with said commissioners a sufficient bond of indemnity, with at least two sureties, to be approved by said commissioner, and by the supervisor of the town, and by the county judge of the county in double the amount of such bonds so to be issued.

Contents of new bond.

§ 2. The new bond or bonds so issued shall state upon the face thereof the denomination and number of the bonds in the place and stead of which they are issued, which said bonds shall be signed by the said railroad commissioners, and the coupons attached thereto, for interest, shall be signed by one of said commissioners, and said bonds countersigned by the town clerk of the town, and registered in the town clerk's office of such town in the record thereof.

Duty of railroad commissioners in the premises.

§ 3. It shall be the duty of the railroad commissioners to cause any such bond of indemnity, taken by them as provided in section one of this act, with their approval indorsed thereon, to be filed with the clerk of the county in which such town is situated, and the proofs of ownership, loss or destruction, to be filed in the office of the clerk of such town.

CHAP. 349, LAWS OF 1877.

AN ACT to provide for the payment of bonds issued by municipal corporations under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," and the acts amendatory thereof.

Commissioners to report annually bonded indebtedness.

SECTION 1. It shall be the duty of the commissioners appointed under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled 'An act to authorize the formation of railroad companies, and to regulate the same,' passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," and the acts amendatory thereof, to report annually the total amount of bonds issued under said chapter 907, Laws of 1869, and the acts amendatory thereof, by the town,

city or village represented by such commissioners; the date and time when the principal of said bonds will become due, the rate and times of payment of interest thereon, the amount of such principal or interest paid, the amount of said principal or interest due and unpaid and to become due before the annual tax levy and collection of tax for the year next succeeding, and the amount in their hands applicable to the payment of the principal of said bonds or the interest thereon.

Form and execution of report; to be delivered to supervisors.

§ 2. Such report shall be in writing, signed by the said commissioners, or a majority of them, and there shall be affixed to said report an affidavit of at least one of the commissioners that such report is in all respects true and correct. The commissioners shall deliver said report to the board of supervisors of the county within three days after the commencement of the annual meeting of said board of supervisors.

Provisions for payment; moneys, to whom to be paid; bond of commissioners, renewal of.

§ 3. It shall be the duty of the board of supervisors, at the annual meeting when such report is received, to cause to be levied and raised by tax, on the taxable property of said town, city or village, the amount necessary to pay the principal and interest due and to become due at any time prior to the annual tax levy and collection of tax for the year then next succeeding, as shown by said report, after deducting moneys on hand for the purpose. The amount so levied and raised by tax, when so collected, shall be paid over to the said commissioners, to be by them applied to the purpose for which it was so collected. And all money now in the hands of the supervisor of any town, or officer of any city or village, applicable to the payment of the principal of said bonds, or interest thereon, shall be, on demand, paid to such commissioners, and any money hereafter raised under the provisions of the act hereby amended, which by law is to be applied to the payment of said bonds, or interest thereon, shall, in like manner, be paid to said commissioners. But before any money shall be so paid to such commissioners, they shall severally execute to the town, city or village, and deliver to the town clerks of towns, or the clerks of cities or villages, a bond with two or more sureties in double the amount of the money to be so received by them, as near as can be ascertained, conditioned for the proper and due disbursement of such money, and the proper accounting therefor, which bond shall be first approved by the supervisor, or the county judge, and by the mayor or president of cities or villages, and said bond shall be renewed annually.

Application of moneys received by commissioners; cancellation of bonds; commissioners to report to town auditors, etc., annually; duplicate to be filed, etc.; indorsement by town officers, etc.; deposit of report and bonds; acts not applicable to certain localities.

§ 4. It shall be the duty of said commissioners to pay the principal and interest of said bonds at the maturity thereof, and on making such payments the bond or interest coupons paid shall be canceled by said commissioners by cutting out a portion of said bonds or coupons; and a full record of all bonds and interest coupons paid and canceled shall be kept by said commissioners, which record shall be at all times open to the inspection of the supervisor, members of the board of town auditors, and justices of the peace of towns, or the members of common councils or trustees of cities or villages; and said commissioners shall report in writing to the board of town auditors of towns, at their annual meeting, and to the common council or trustees of cities or villages, on the first day of April of each year, the date, number and amount of all bonds and interest coupons paid by them and canceled during the past year, and since their last report, and shall, at the same time, produce and deliver to the said town auditors, common council or trustees, the bonds and interest coupons canceled by them, taking a receipt therefor, which shall set forth the date, number and amount of each bond or coupon. Said commissioners, at the time of making such report, shall also file with the town clerk of towns, and clerk of cities and villages, a

duplicate thereof. The said town auditors and the common council or trustees, as the case may be, shall indorse upon the report so received from the commissioners, that the bonds and interest coupons mentioned therein, duly canceled, were received by them from the commissioners, if such is the case, and if all or any of them are not so received, so state in the indorsement. They shall then deposit said canceled bonds and coupons with said report, in the office of the clerk of the county for safe-keeping. Nothing in this act contained shall in any manner apply to or affect the town of Orleans, in the county of Jefferson, or any officer thereof, or any money raised by tax on the property therein, or to any bonds except such as were given under the act mentioned in the foregoing title.

Limitation.

§ 5. The provisions of this act shall not apply to the counties of Oswego, Madison, Erie, Orleans, Niagara and Genesee.

CHAP. 84, LAWS OF 1871.

AN ACT to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only.

Railroad and other corporate bonds; how made non-negotiable.

SECTION 1. It shall be lawful for any person or persons owning and holding any railroad mortgage bonds, or other corporate bonds (for which a registry is not by law provided), heretofore issued, or which may be hereafter issued, and made payable in this State, and which are made payable to bearer, to render the same non-negotiable by the owner and holder indorsing upon the same and subscribing a statement that said bond is the property of such owner. And thereupon the principal sum of money mentioned in said bond shall only be payable to such owner or his legal representatives or assigns.

Transfers; how made.

§ 2. The bonds described and referred to in the first section of this act may be transferred by an indorsement in blank, giving name and residence of assignor, or they may be transferred by an indorsement payable to bearer or to the order of the purchaser (naming him), subscribed by the assignor, giving name and place of residence.

CHAP. 595, LAWS OF 1873.

AN ACT relative to certain negotiable corporate bonds and obligations.

How owner may make bonds non-negotiable.

SECTION 1. The owner or holder of any corporate or municipal bond or obligation (except such as are designed to circulate as currency) payable to bearer, heretofore issued, or which may hereafter be issued and payable in this State, but not registered in pursuance of any law thereof, may make the same non-negotiable (except as provided in the second section of this act), by subscribing his name to a statement indorsed thereon that such bond or obligation is his property; and thereupon the principal sum therein mentioned shall be payable only to such owner or holder, or his legal representatives or assigns.

How transferred after such indorsement.

§ 2. The bonds and obligations mentioned in the last section, after having been indorsed as therein provided, may be transferred by an indorsement, in blank, or payable to bearer, or to order, with the addition of the assignor's place of residence.

The provisions of this act to apply to interest coupons.

§ 3. The provisions of this act shall apply to all interest coupons accompanying any corporate or municipal bond or obligation payable in this State.

Repeal.

§ 4. So much of chapter 84 of the Laws of 1871, entitled "An act to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only," as is inconsistent with this act is hereby repealed.

ACTS GOVERNING RAILROADS AND THEIR EMPLOYEES IN MANAGEMENT OF ROAD.

CHAP. 100, LAWS OF 1847.

AN ACT to provide for the destruction of Canada thistles and other noxious weeds on the banks of the canals, railroads and turnpike roads.

* * * * *

Canada thistles to be cut; if corporation neglect, any person may cut down at expense of corporation.

§ 3. It shall be the duty of the several railroad corporations and turnpike road corporations within this State to cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by such corporations, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. (*Thus amended, Laws 1881, chap. 296.*)

Any person may cut down where corporation neglects; corporation to pay expense.

§ 4. If the said corporations, or any or either of them, shall neglect to cause the same to be cut down, at the times in the third section of this act mentioned, it shall be lawful for any person to cut the same between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands said Canada thistles, white and yellow daisies, or other noxious weeds shall be so cut, at the rate of \$3 per day for the time so occupied in cutting, to be recovered in any court of justice in this State. (*Thus amended, Laws 1881, chap. 296.*)

CHAP. 534, LAWS OF 1879.

AN ACT for the preservation of moose, wild deer, birds, fish and other game.

Restrictions as to transportation of venison or deer.

SECTION 1. * * * No person, common carrier, corporation, association or company shall at any time carry or transport in this State, or have in possession for the purpose of transportation, any wild deed* or venison, taken, caught, killed or captured in the counties of this State, or in either of them, except the counties of Queens and Suffolk, and any person, common carrier, corporation, association or company which has in his or its pos-

*So in original.

possession any such wild deer or venison, taken, caught, killed or captured in any of the said counties of the State as aforesaid, or in either of them, except the counties of Queens and Suffolk, shall be deemed to have them in possession in violation of this act, except, however, that they may transport or have in possession for the purposes of transportation from the fifteenth day of August to the fifth day of November, not more than one carcass of wild deer or venison, taken, caught, killed or captured in said counties as aforesaid, or either of them, for each owner of said carcass as aforesaid; provided that such carcass be accompanied by the owner. This section shall not apply to the head or feet of wild deer when severed from the carcass. Any person offending against any of the preceding provisions of this section shall be deemed guilty of a misdemeanor, and in addition thereto shall be liable to a penalty of one hundred dollars for each wild deer or fawn so killed, hunted, pursued or trapped, or for each carcass or part thereof transported or had in possession for transportation in violation of this act, and for every spring gun so set, or wild deer or fawn skin, or venison, had in possession, and may be proceeded against therefor in any county in this State in which the offense was committed, or in which the offender or prosecutor may reside, or have an office for the transaction of business. (*As amended by chap. 501, Laws of 1888.*)

CHAP. 283, LAWS OF 1885.

AN ACT to establish a forest commission, and to define its powers and duties and for the preservation of forests.

* * * * *

Forest lands not to be leased or taken.

§ 8. The lands now or hereafter constituting the forest preserve shall be forever kept as wild forest lands, and shall not be sold nor shall they be leased or taken by any person or corporation, public or private, except that whenever any of the lands now constituting the forest preserve, or which may hereafter become a part thereof, owned by the State within any county specified in section seven of the act hereby amended, shall consist of separate small parcels or tracts wholly detached from the main portions of the forest preserve and bounded on every side by lands not owned by the State, then it shall be lawful, and the Comptroller shall have power to sell and convey such separate tracts or parcels, or the timber thereon, to such person or persons, corporation or association as shall have offered the highest price therefor; but no such tracts or parcels of land, or the timber thereon, shall be sold by the Comptroller except upon the recommendation of the forest commission or a majority thereof, together with the advice of the Attorney-General in behalf of the State. Such separate tracts or parcels of land may be exchanged by the Comptroller for lands that lie adjoining the main tracts of the forest preserve upon the recommendation of the forest commission or a majority thereof, together with the advice of the Attorney-General on behalf of the State; but the values of said lands so exchanged must be first appraised by three disinterested appraisers sworn to faithfully and fairly appraise the value of said lands, and the difference, if any, between the values of such parcels so proposed to be exchanged shall be paid by the party so exchanging with the State into the State treasury, but the State shall not pay the amount of any such difference. Two of said appraisers shall be nominated and appointed by the county judge of the county in which said lands proposed to be exchanged are situate, or in case such lands are situate in two counties, then the county judge of each county shall nominate and appoint each one appraiser. The two appraisers so appointed shall select a third appraiser, and they shall report to the Comptroller the result of said appraisal before such lands shall be exchanged as aforesaid. The said appraisers so appointed shall receive the same compensation for their services as is provided for appraisers of decedents' estates, to be paid by the party so proposing to exchange lands with the State. It shall be the duty of the Comptroller annually to report to the Legislature all sales or exchanges of lands made under the provisions of this act, together with all bids and the

amounts received therefor, and in said report shall be included the reports of appraisers of lands exchanged in accordance with the foregoing provisions. The proceeds of all land so sold, or the receipts from all exchanges so made, shall be invested by the Comptroller, with the approval of the forest commission, in the purchase of forest land adjoining great blocks of the forest preserve now owned by the State. (*Thus amended, Laws of 1887, chap. 475.*)

Railroad companies to burn all inflammable material.

§ 25. Every railroad company whose road passes through waste or forest lands, or lands liable to be overrun by fires within this State, shall twice in each year cut and burn off or remove from its right of way all grass, brush or other inflammable material, but under proper care, and at times when the fires thus set are not liable to spread beyond control.

Locomotives to be provided with arrangement for preventing escape of fire from engine.

§ 26. All locomotives which shall be run through forest lands shall be provided, within one year from the date of this act, with approved and sufficient arrangements for preventing the escape of fire from their furnaces or ash-pan, and netting of steel or iron wire upon their smoke-stack to check the escape of sparks of fire. It shall be the duty of every engineer and fireman employed upon a locomotive to see that the appliances for the prevention of the escape of fire are in use and applied, as far as it can be reasonably and possibly done.

Fire not to be deposited on track in the vicinity of woodlands; trainmen to report fences on fire; extinguishment.

§ 27. No railroad company shall permit its employees to deposit fire-coals or ashes upon their track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and in all cases where any engineers, conductors or trainmen discover that fences along the right of way, on woodlands adjacent to the railroad, are burning, or in danger from fire, it shall be their duty to report the same at their next stopping place, and the person in charge of such station shall take prompt measures for extinguishing such fires.

Companies to provide men to extinguish fires.

§ 28. In seasons of drought, and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient additional number of trackmen for the prompt extinguishment of fires. And where a forest fire is raging near the line of their road they shall concentrate such help and adopt such measures as shall most effectually arrest their progress.

§ 29. Any railroad company violating the provisions or requirements of this act shall be liable to a fine of \$100 for each offense.

CHAP. 439, LAWS OF 1884.

AN ACT for the better protection of life and property upon the railroads of this State, to promote the safer and better management of steam railroads.

The switches to be used in constructing new or in renewal of old ones.

SECTION 1. Steam railroads shall hereafter lay in the construction of new and in the renewal of existing switches upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenz or split-point switch, or some other kind of safety switch which shall prevent the derailment of a train when such switch is misplaced, or a switch interlocked with distant signals. For each switch laid in violation of the provisions of this section the corporation, person or persons operating said railroad, shall be liable to a penalty of not exceeding \$100, and to the further penalty of \$5 for each day that such switch is used.

Warning signals; penalty; what misdemeanor.

§ 2. Every steam railroad shall, within six months after the passage of this act, erect, and thereafter maintain, such suitable warning signals at every low bridge or structure which crosses the railroad above the tracks, where such warning signals may be necessary for the protection of employees on top of cars from injury. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each thirty days' neglect. Whoever willfully destroys or breaks any such bridge guard shall be guilty of a misdemeanor.

The Supreme or County Court may, on application, etc., order flagman to be stationed at highway crossing, etc.; when such order to be made; special provision as to speed in certain villages.

§ 3. At any point where a street, highway, turnpike, plankroad or traveled way is crossed at the same level by a railroad, or at any point where a horse railroad is crossed by a steam railroad, the Supreme Court or County Court may, upon the application of the local authorities and upon ten days' notice to the railroad corporation whose road so crosses, order that a flagman be stationed at such point, or that gates shall be erected across such street, highway, turnpike or plankroad, and that a person be stationed to open and close such gates when an engine or train passes, or make such other order respecting the same as it deems proper. Such order shall only be made after the refusal or neglect of such corporation to station such flagman or erect such gates after having been requested so to do by such local authorities. And whenever the crossings by a railroad at the same level of any street, highway, turnpike, plankroad or traveled way within the limits of any village or city shall be protected by gates with persons stationed to open and close the same when an engine or train passes, it shall not be lawful for the local authorities of such village or city, not having by the last State or United States census a population of fifty thousand, to impose any limitation, less than thirty miles per hour, upon the speed at which such engine or train shall be run upon the railroad within the corporate limits of such village or city, or to enforce any existing limitations upon such rate of speed. (*Thus amended, Laws of 1889, chap. 242.*)

Automatic couplers after July 1, 1886, to be placed on new freight cars; penalty.

§ 4. After July 1, 1886, no couplers shall be placed upon any new freight car to be built or purchased for use, in whole or in part, upon any steam railroad in this State, unless the same can be coupled and uncoupled automatically without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each offense.

(See, also, chap. 524, Laws of 1889, p. 464.)

Trains and locomotives to come to a full stop where roads cross on same level; when to cross; expense of watchman; action when railroad companies disagree as to precedence of trains; penalty of engineer and corporation; when stop may be discontinued; where this section not to apply.

§ 5. All trains and locomotives on railroads crossing each other on the same level shall come to a full stop before crossing, not less than 200 nor more than 800 feet from said crossing, and shall then cross only when the way is clear and upon a signal to do so from a watchman stationed at the crossing. If they cannot agree as to the expense of such watchman, it shall be determined by the Supreme Court, upon motion thereto by either of said corporations. In case of disagreement as to the precedence of trains, the Board of Railroad Commissioners, after hearing, may, upon a joint application of the companies interested, prescribe rules in relation thereto. An engineer violating the provisions of this section shall be liable to a penalty of \$100, and any corporation, person, or persons operating the railroad violating any of the provisions of this section shall be liable to a penalty not exceeding \$500. The full stop and crossing on signal,

provided in this section, may be discontinued when the Board of Railroad Commissioners shall decide it to be impracticable, or when, with the approval of the Board of Railroad Commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such crossing by the railroads there crossing each other at a level. This section shall not apply to depot yards and the approaches thereto when the crossing roads are under lease or subject to the same management or control in the use of tracks.

When automatic air-brakes or other form of safety power brake to be applied from locomotive to be attached to passenger cars; not to apply to cars attached to freight trains where speed does not exceed twenty miles an hour; the old link connection after July 1, 1884, not to be used on cars carrying mails and passengers exclusively; penalty.

§ 6. After the expiration of one year from the passage of this act, no steam railroad shall use for passenger transportation any car to which an automatic air-brake or other form of safety power brake, applied from the locomotive, shall not be attached. The provisions of this section shall not apply to any cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour. And after July 1, 1884, no trains which carry mails or passengers exclusively shall run cars coupled by the old link connections. The corporation, person or persons operating said railroad and violating the provisions of this section shall be liable to a penalty not exceeding \$100 for each offense.

Where baggage is willfully or recklessly injured; insufficient help for handling; penalty; disposition thereof.

§ 7. Any baggagemaster or other person whose duty it is, for, or on behalf of any common carrier, to handle, remove or care for the baggage of passengers, who shall willfully or recklessly injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or storing the same, or any railroad corporation which shall knowingly keep in its employment any such willful or reckless baggagemaster, or other person, or who shall permit any injury or destruction of the property aforesaid through failure to provide sufficient help and facilities for the proper handling thereof, shall be liable to a penalty not exceeding fifty dollars. Upon the recovery and payment of such penalty, the court before whom such recovery is had shall set apart and pay over to complainant one-half of the amount so recovered and paid.

Axe, sledge-hammer, crowbar and handsaw to be kept in each closed car in every passenger train; penalty.

§ 8. Each closed car in use in every passenger train, owned or regularly used upon a railroad, shall be equipped with one set of tools, consisting of an axe, sledge-hammer, crowbar and handsaw, to be properly placed so as to be easily removed. The corporation, person or persons operating said railroad violating the provisions of this section shall be liable to a penalty of \$100 for each offense.

Proviso.

§ 9. Nothing in this act shall affect the provisions of chapter 353 of the Laws of 1882. (*Act creating Board of Railroad Commissioners.*)

CHAP. 524, LAWS OF 1889.

AN ACT regulating railway appliances to be used on all railway lines within the limits of the State of New York.

Use of automatic couplers on freight cars regulated.

SECTION 1. All persons and corporations operating any line or lines of railway by steam power in this State shall, after the first day of November, 1892, equip all of its own engines and freight cars run and used in freight trains, or other trains in this State, with such automatic self couplers; and it shall be unlawful after that date, to run or operate in this State any freight cars belonging to such persons or corporations without having the same equipped with the appliances above mentioned. Provided, that it shall be lawful in case of accident, or other emergency, to temporarily dispense with the use of such appliances.

Railroad Commissioners may extend time.

§ 2. In special cases the Railroad Commissioners of this State may extend the time for compliance with this act for a period not exceeding one year.

Failure to comply with act; how punished.

§ 3. Any person or corporation operating a line of railway by steam power in this State who shall fail or neglect to comply with the provisions of this act shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of \$500 for each offense. Provided, that employees shall not be deemed guilty or subject to punishment under this act.

(See in this connection § 4 of chap. 439, Laws of 1884, page 463.)

CHAP. 605, LAWS OF 1886.

AN ACT to relieve certain railroad companies from the obligation of operating their road, under certain conditions, during the winter season.

Certain roads may cease operating in winter season.

SECTION 1. It shall be lawful for the directors of any railroad hereafter constructed and used principally for transporting lumber or ores during the summer months, or constructed and used principally for summer travel to cease the operation thereof during the winter season by complying with the provisions of this act.

Application to be made to Board of Railroad Commissioners.

§ 2. Any such corporation may by a resolution duly passed at a meeting of the directors thereof, apply to the Board of Railroad Commissioners of this State, for permission to cease the operation of their road during the winter season for a period not exceeding seven months in any one year, specifying the date of such suspension, and the date of the reopening thereof. Such Board of Railroad Commissioners may, in their discretion, grant an order permitting such abandonment of the operation of said road during the winter season not exceeding said period of seven months. When such Board of Railroad Commissioners shall so order, said railroad company shall be relieved of the duty of operating their road during the period specified in such order.

Copy of order to be posted and published.

§ 3. Said railroad company shall post a copy of such order so made by said Board in all the depots of and at the termini of said road, and publish the same in every paper in each town, in any part of which said road shall be constructed, at least four weeks prior to the date of such suspension.

CHAP. 616, LAWS OF 1887.

AN ACT to regulate the heating of steam passenger cars and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto.

Passenger cars not to be heated by stove or furnace; powers of Railroad Commissioners in relation thereto.

SECTION 1. It shall not be lawful for any steam railroad doing business in this State, after the first day of November, eighteen hundred and eighty-eight, to heat its passenger cars, on other than mixed trains, by any stove or furnace kept inside of the car, or suspended therefrom, except it may be lawful, in case of accident or other emergency, to temporarily use such stove or furnace with necessary fuel. Provided, that in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained, to be used only when the car is standing still. And provided also, that this act shall not apply to railroads less than fifty miles in length, nor to the cars of foreign railroad companies incorporated without the jurisdiction of the United States hauled upon railroad tracks in this State for a distance of less than thirty miles, nor to the use of stoves, of a pattern and kind to be approved by the Railroad Commissioners, for cooking purposes in dining-room cars. (*Thus amended, Laws of 1889, chap. 76.*)

Guard-posts to be placed in prolongation of line of bridge trusses.

§ 2. After November first, eighteen hundred and eighty-seven, guard-posts shall be placed in the prolongation of the line of bridge trusses, so that in case of derailment the posts and not the bridge trusses shall receive the blow of the derailed locomotive or car.

Penalty for violation of this act.

§ 3. Any person or corporation violating any of the provisions of this act shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such a violation shall continue.

Board of Railroad Commissioners to approve devices used under this act.

§ 4. Upon the application of any railroad covered by the provisions of this act, the Board of Railroad Commissioners may approve of any proposed safeguard or device to be used under the provisions of this act, and thereafter the railroad using such safeguard or device so approved shall not be liable to any of the penalties prescribed by this act for a violation thereof in regard to any such safeguard or device.

§ 5. The violation of any of the provisions of this act will be deemed a misdemeanor.

CHAP. 189, LAWS OF 1888.

AN ACT to amend chapter six hundred and sixteen, laws of eighteen hundred and eighty-seven, entitled "An act to regulate the heating of steam passenger cars and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto."

(Section 1 amends § 1, chap. 616, Laws of 1887, as given above.)

Railroad Commissioners may extend time for heating in special cases.

§ 2. In special cases the Board of Railroad Commissioners may extend the time for a period not exceeding one year from November first, eighteen hundred and eighty-eight, for any steam railroad doing business in this State, to heat its passenger cars by any stove or furnace kept inside the car or suspended therefrom.

CHAP. 292, LAWS OF 1892.

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Oils that ignite below 300 degrees Fahrenheit not to be burned in cars.

§ 2. No oil or burning fluid, whether composed wholly or in part of coal oil and petroleum or their products, or other substance or material, which will ignite at a temperature below three hundred degrees by the Fahrenheit thermometer, shall be burned in lamp, vessel, or other stationary fixture of any kind, or carried as freight, in any passenger or baggage car, or passenger boat moved by steam power in this State, or in any stage or street car drawn by horses. Exceptions as regards the transportation of coal oil, petroleum and its products, are hereby made when the same is securely packed in barrels or metallic packages, and permission is hereby granted for its carriage in passenger boats moved by steam power when there are no other public means of transportation. Any violation of this act shall be deemed a misdemeanor and subject the offending party or parties to a penalty not exceeding three hundred dollars, or imprisonment not exceeding six months, at the discretion of the court.

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§ 5. It shall be the duty of all district attorneys of the counties in this State to represent and prosecute in behalf of the people, within their respective counties, all cases of offenses arising under the provisions of this act.

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CHAP. 300, LAWS OF 1837.

AN ACT relative to unclaimed trunks and baggage.

Description of same to be entered in a book.

SECTION 1. The proprietor or proprietors of the several lines of stages, and the proprietors of the several canal boat lines, and the proprietors of the several steamboats, and the several incorporated railroad companies, and the keepers of the several inns and taverns within this State, who shall have any unclaimed trunks, boxes or baggage within his, their, or either of their custody, shall immediately enter the time the same was left, with a proper description thereof, in a book to be by them provided and kept for that purpose. In case the name and residence of the owner shall be ascertained, it shall be the duty of such person who shall have any such property as above specified, to immediately notify the owner thereof by mail.

Description of property to be made and published in State paper.

§ 2. In case there shall not be any information obtained as to the owner, it shall be the duty of the person having the possession thereof, to make out a correct written description of all such property as shall have been unclaimed for thirty days, stating the time the same came into his possession, and forward said description to the editor of the State paper, whose duty it shall be on the first Mondays of July, October, January and April, in each year, to publish the same in the State paper once a week for three weeks successively.

If not claimed for sixty days after said publication, to be opened and examined and an inventory made; when to be sold at public auction, upon what notice; disposition of proceeds.

§ 3. In case the said property shall remain unclaimed for sixty days after the said publication, it shall be the duty of the person or company having possession thereof, to apply to a magistrate of the town or city in which said property is retained, in whose presence and under whose direction said property shall be opened and examined, and an inventory thereof taken by said magistrate; and if the name and residence of the owner is ascertained by such examination, it shall be the duty of the magistrate forthwith to direct a notice thereof to such owner, by mail; and if said property shall remain unclaimed for three months after such examination, it shall be the further duty of the person or company having possession thereof to apply to a magistrate as aforesaid, and if said magistrate shall deem such property of sufficient value, he shall cause the same to be sold at public auction, giving six days' previous notice of the time and place of such sale; and from the proceeds of such sale he shall pay the charges and expenses legally incurred in respect to said property, or a ratable proportion thereof to each claimant, if insufficient for the payment of the whole amount; and the balance of the proceeds of such sale, if any, the said magistrate shall immediately pay to the overseers of the poor of said town or city, for the use of the poor thereof, and the said overseers shall make an entry of such amount, and the time of receiving the same, upon their official records, and it shall be subject, at any time within seven years thereafter, to be reclaimed by, and refunded to, the owner of such property, his heirs or assigns, on satisfactory proof of such ownership.

Expense; to be a lien on property.

§ 4. The person making the entry of unclaimed property as above specified, shall be entitled to twelve and a half cents for each trunk, box, bale, package or bundle so entered, and shall have a lien on the property so entered until payment shall be made; and in case any additional expense shall be incurred for printing, the lien shall continue until payment shall be made for such additional expense.

Penalty.

§ 5. In case any person shall neglect or refuse to comply with the provisions of this act, he shall forfeit the sum of five dollars for each and every trunk, box or bundle of baggage so neglected as above specified, to the benefit of any person who shall sue for the same in his own name, in an action of debt in any court having cognizance thereof.

CHAP. 185, LAWS OF 1857.**AN ACT to prevent extortion by railroad companies.****Penalty for taking excess of fare.**

SECTION 1. Any railroad company which shall ask and receive a greater rate of fare than that allowed by law shall forfeit \$50, which sum may be recovered, together with the excess so received, by the party paying the same; but it shall be lawful, and not construed as extortion, for any railroad company to take the legal rate of fare for one mile for any fractional distance less than a mile; and every action brought to recover said \$50 and excess of fare shall be brought within one year after the accruing of the cause of action. But it shall be a defense in any such action if the railroad company shall show to the satisfaction of the court that such overcharge shall have been made through inadvertence or mistake not amounting to gross negligence. (*Thus amended, Laws of 1886, chap. 415.*)

CHAP. 346, LAWS OF 1863.**AN ACT empowering railroad companies to employ police force.****Appointment of policemen.**

SECTION 1. Any railroad corporation on which road steam is used as the motive power, and any steamboat company may apply to the Governor to commission such person or persons as the said corporation may designate, to act as policemen for said corporation; but no more than one policeman shall be appointed at any one station of such company. (*Thus amended, Laws 1866, chap. 259.*)

Number.

§ 2. The Governor, upon such application, may appoint such persons or so many of them as he may deem proper to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policemen.

Policemen to take oath of office, Secretary of State to transmit certificate of appointment, etc.

§ 3. Every policeman so appointed shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the oath of office prescribed in the case of officers appointed by the Governor, in the twelfth article of the Constitution, which oath of office shall be taken and subscribed before the Secretary of State, or before the county clerk of the county in which such policeman resides, which said oath or a duplicate thereof shall be filed in the office of the Secretary of State. And it shall be the duty of the Secretary of State, upon the filing of such oath of office, to transmit to the county clerk of each county through or into which the railroad or steamboat for which such policeman is appointed may run, and in which the said policeman is herein authorized to act, a certificate under his hand and the seal of his office, setting forth the appointment of said policeman by the Governor, and that his commission is recorded and oath of office filed in the office of said Secretary of State, which certificate shall be filed by each county clerk receiving the same. Such policemen shall thereupon severally possess all the powers of policemen in the several towns, cities and villages in which they shall be so authorized to act as aforesaid. (*Thus amended, Laws of 1875, chap. 193.*)

Shield.

§ 4. Such police shall, when on duty, severally wear a metallic shield, with the words "railway police," or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, and said shield shall always be worn in plain view, except when employed as detectives. (*Thus amended, Laws of 1866, chap. 259.*)

Compensation.

§ 5. The compensation of such police shall be paid by the companies for which the policemen are respectively appointed, as may be agreed upon between them.

Powers of, when to cease.

§ 6. Whenever any company shall no longer require the services of any policeman so appointed as aforesaid, they may file a notice to that effect in the several offices in which notice of such appointment was originally filed, and thereupon the power of such officer shall cease and be determined.

CHAP. 483, LAWS OF 1867.

AN ACT to prevent injury and loss of life to persons on railroad cars, and in relation to a uniform for the employees thereof.

Platforms to cars ; uniforms for officers.

SECTION 1. It shall be the duty of every railroad company or corporation in this State, and every railroad company or corporation running, or that may hereafter run its passenger cars in this State, to cause the platforms upon the ends of all passenger cars to be so constructed that when said cars shall be coupled together, or made up into trains and in motion, danger of injury to persons or loss of life between the ends of said cars, by falling between the platforms of said cars while passing from one car to another, shall, so far as practicable, be avoided. It shall be the duty of every railroad company operating a railroad in this State by the power of steam to designate and prescribe such peculiar uniform or external apparel, to be worn by its officers, agents and employees, engaged in or about its passenger offices or stations, or on or about its trains upon its tracks, as shall plainly to all travelers, distinguish all such persons; and such uniform or apparel shall also plainly indicate or distinguish the position or rank of the wearer in the employment of such company. It shall be the duty of every such person to provide and wear such apparel or uniform when employed as aforesaid. And every such company that shall fail to designate and prescribe such apparel or uniform, and to also cause the same to be generally worn by all such persons, from and after six months from the passage of this act, shall forfeit to the people of this State and be liable and pay to the Treasurer of this State, on the first day of January next following the expiration of said six months, and on every first day of January thereafter, the sum of \$10,000. It shall be the duty of the Attorney-General of this State, in the name of the people thereof, to sue for and recover said penalties for the benefit of the State. And in case of the refusal or omission of any person aforesaid to wear said uniform or apparel, as contemplated by this act, or to obey any reasonable rule or regulation of any such company relative to the same, or the wearing thereof, it shall be the right and duty of every such company to deduct and retain the amount of five per cent of the agreed or accustomed compensation of such delinquent person, during the period of any such neglect or refusal. And every person who shall advise or use any persuasion to induce any person being an officer, agent or employee of any such company, to leave the service of such company by reason of any such apparel or uniform being required to be worn, or to refuse to wear the same, or any part thereof, every person who, without authority, shall wear such uniform or apparel, and every person being an officer or agent in any company aforesaid, who shall use any inducement with any person aforesaid to come into the employment of any other such company, by reason

of apparel or uniform so required or designated to be worn, shall severally, by reason thereof, be guilty of a misdemeanor and be liable to be punished for such offense.

Fine for violation.

§ 2. Each and every violation of this act by any railroad company or corporation, shall, on conviction, be punished by a fine of not less than \$50 nor more than \$500, to be sued for and collected in the name of the people of the State of New York by the Attorney-General, and the moneys, when collected, to be paid into the general fund of the State.

Proviso.

§ 3. This act shall not operate or be construed to exempt railroad companies or corporations from liability for damages to persons who may be injured or sustain loss or damage by or through any neglect to comply with the provisions of this act.

§ 4. (Omitted as obsolete.)

CHAP. 223, LAWS OF 1880.

AN ACT for the better protection of the traveling public.

Governor authorized to appoint conductors and brakemen special policemen.

SECTION 1. The Governor is hereby authorized, in his discretion, to appoint all or any conductors and brakemen of any trains of any steam railroad in this State conveying passengers, for the purposes of this act, policemen having all the powers, for the purposes of this act, with which policemen of villages and cities are clothed, and each and every such conductor and brakemen shall take and file the usual oath of office, in the office of the clerk of the county in which he resides, or in the office of the clerk of the county in this State in which either terminus of such road may be.

Power to arrest.

§ 2. All such conductors and brakemen acting as policemen under this act, upon any such railroad, shall have full power and it shall be their duty to arrest and hold in custody, and deliver to any magistrate having jurisdiction in such cases, at either terminus of such road in this State or at any intermediate station, any or all persons whom they may find engaged in, or endeavoring to entice others to engage in any game of cards or any other game of chance whatever, in which money or any representative of money, or any other valuable thing, is to be lost or won, and to enter complaint to such magistrate for any violation of the law governing in such cases.

Penalty for failure to act.

§ 3. Any conductor or brakeman refusing or neglecting to perform the duty imposed upon him by this act shall be liable to a fine not exceeding \$250, to be sued for by and in the name of any superintendent of the poor of any county where such refusal or neglect may have occurred, in any court of competent jurisdiction at any place on the line of said railroad, or to imprisonment not less than six months, or to both, in the discretion of the court.

Fines, when collected; disposition of.

§ 4. Any fine so imposed, when collected, shall be placed in the treasury of the county where recovered, for the use of the poor of said county.

Copy of this act must be posted by superintendent or manager.

§ 5. It shall be the duty of every superintendent or manager of every steam railroad in this State, immediately after the passage of this act, to post a copy of this law in some conspicuous place in each and every car used for the conveyance of passengers, under a penalty of not to exceed five dollars for each and every such car in which such notice shall not be posted.

CHAP. 636, LAWS OF 1870.

AN ACT to provide for the better protection of life and safety of property transported on the several railroads of this State.

Qualification of engineers.

SECTION 1. No person shall be employed as an engineer by any officer or agent acting for or in behalf of either of the railroads of this State who cannot read the printed time tables and ordinary handwriting.

Id.

§ 2. No person shall run an engine on a regular or special train upon either of the railroads of this State who cannot read printed time tables and ordinary handwriting.

Penalty.

§ 3. Any person offending against the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor, and punishable for each offense by a fine not exceeding \$100, or six months' imprisonment in a county jail, in the discretion of the court having cognizance of the offense.

CHAP. 246, LAWS OF 1865.

AN ACT in relation to employees on railroads in this State.

Any person over twenty-one years of age may be employed.

SECTION 1. It shall be lawful for the owner or owners of any railroad in this State to employ any inhabitant of this State of the age of twenty-one years, as a car driver or conductor, or in any other capacity, notwithstanding any law, regulation, or ordinance of any officer or municipality, or of the common council or government of any city or county to the contrary.

CHAP. 560, LAWS OF 1866.

AN ACT for the preservation of the health of animals for human food.

Limit of confinement of cattle in cars.

SECTION 1. No railroad company in this State, in the carrying and transportation of cattle, sheep or swine, shall confine the same in cars for a longer period than twenty-eight consecutive hours, unless delayed by storms or other accidental causes, without unloading for rest, water and feeding, for a period of at least ten consecutive hours. In estimating such confinement, the time the animals have been confined without such rest on connecting roads from which they are received shall be computed, it being the intention to prevent their continuous confinement beyond twenty-eight hours, except upon the contingencies herein stated. Nothing in this act contained shall require the unloading of cattle, sheep or swine from the cars of the Buffalo and State Line railroad before their arrival at Buffalo, and the Atlantic and Great Western railroad before they arrive at Salamanca.

What company may do when owner neglects to feed.

§ 2. Provided the owner or person in charge of said animals refuses or neglects to pay for the care and feed of animals so rested, the railroad company may charge such expense to the owner or consignee, and retain a lien upon the animals until the same is paid; and provided further, that no claim of damages for detention shall be recovered by the owner or shipper of any animals for the time they are detained under the provisions of this act.

Penalty for violation of act.

§ 3. Any railroad company, owner, consignee, or person in charge of said cattle, sheep, or swine, who shall violate any provision of this act, shall, for each and every such violation, be liable for and forfeit and pay a penalty in the sum of \$100, to be sued for and collected in any court having jurisdiction, by any person, in the name of the people of the State of New York; one-half of the penalty, when collected, to belong to the informer, and the balance to be paid to the State Treasurer of the State of New York.

CHAP. 401, LAWS OF 1887.**AN ACT in relation to milk cans.**

* * * * *

Rights of railroad superintendents in relation thereto.

§ 11. The owner or owners, dealer or dealers, shipper or shippers, and the several superintendents of the various railroad companies and the branches and connections thereof, and steamboat lines operating their lines, or any portion thereof in the State of New York, or elsewhere, shall have power to collect, gather and take into possession from any person or persons within the State of New York, or wherever found in said State, any such milk or cream can or cans, and shall have power to appoint an agent therefor.

What shall constitute evidence of appointment of agent.

§ 12. The certificate of any superintendent of any of the railroad companies or steamboat lines mentioned in this act, or other person or persons authorized thereto, in this act, appointing an agent to collect such can or cans duly acknowledged before a notary public, shall be presumptive evidence of the authority of such agent.

Powers of such agent.

§ 13. Such agent shall have full power to collect, gather and take into his possession from any person or persons, or wherever found, any such milk or cream can or cans, and in case of resistance may call to his aid the assistance of any constable or police officer, who shall assist him to take possession of such can or cans.

CHAP. 160, LAWS OF 1838.**AN ACT to punish willful injuries to railroads.****Punishment.**

SECTION 1. Every person who shall willfully, with malicious intent, remove, break, displace, throw down or destroy any iron, wooden or other rail, or any branches or branchways, or any part of the tracks, or any bridge, viaduct, culvert, embankment or other fixture, or any part thereof, attached to or connected with such tracks of any railroad in this State now in operation, or which shall hereafter be put in operation, or who shall willfully, with like malicious intent, place any obstructions upon the rails or tracks of such railroad, shall, upon conviction, be punished by imprisonment in the State prison not exceeding five years, or in a county jail not less than six months.

Excepting in cases of death.

§ 2. The preceding section shall not be so construed as to extend to cases where death to a human being shall result from the commission of either of the offenses mentioned in said section.

(§ 3 repeals chapter 187, Laws of 1834.)

CHAP. 261, LAWS OF 1877.

AN ACT to punish trespassing on railroads.

Obstructions on track ; punishment for willfully placing.

SECTION 1. Any person who shall willfully place any obstruction upon any railroad, or loosen, tear up or remove any part of a railroad, or displace, tamper or in any way interfere with any switches, frogs, rail, track, or other part of any railroad, so as to endanger the safety of any train, or who shall willfully throw any stone or other missile at any train on any railroad, or at any street car or omnibus upon or in which there shall be at the time any passenger or passengers, shall, upon conviction thereof, be punished by imprisonment in a State prison not exceeding ten years, or by a fine not exceeding \$1,000, or by both such fine and imprisonment (*Thus amended, Laws of 1881, chap. 436.*)

(Chapter 415, Laws of 1879, applicable to Kings county only, and hence omitted.)

CHAP. 329, LAWS OF 1886.

AN ACT to prevent the spread of contagious and infectious diseases.

In what cases hermetically sealed casket is requisite.

SECTION 1. Whenever the body of any deceased person is to be transported over the railroads of this State, or upon any passenger steamboat plying upon the rivers of this State, the board of health to which application is made for a transit permit for the transportation of such body shall, if the physician's certificate, or the permit accompanying such body, state the cause of death to have been a contagious or infectious disease, require that such body be inclosed in an hermetically sealed casket of metal or other indestructible material.

CHAP. 134, LAWS OF 1878.

AN ACT in relation to infectious and contagious diseases of animals.

(So much of section two of the said act as is applicable to railways.)

To order all or any animals coming into the State to be detained at any place or places for the purpose of inspection and examination.

To prescribe regulations for the destruction of animals affected with infectious or contagious disease, and for the proper disposition of their hides and carcasses, and of all objects which might convey infection or contagion, provided that no animal shall be destroyed unless first examined by a medical or veterinary practitioner in the employ of the Governor as aforesaid.

To prescribe regulations for the disinfection of all premises, buildings, boats and railway cars, and of all objects from or by which infection or contagion may take place or be conveyed.

To alter and modify from time to time, as he may deem expedient, the terms of all such proclamations, orders and regulations, and to cancel or withdraw the same at any time. (*As amended by chap. 286, Laws of 1888.*)

CHAP. 370, LAWS OF 1880.

AN ACT to prevent trespassing and intrusion upon railroad cars and engines.

Jumping upon cars prohibited.

SECTION 1. No minor or other person, not a passenger, shall climb, jump, step, stand upon, cling to or in any way attach himself to, any locomotive,

engine or car, upon any part of the track of any railroad in this State, unless in so doing such person shall be acting in compliance with law, or by permission under the lawful rules and regulations of the corporation or proper officer managing such railroad.

Solicitation to enter baggage car, freight car, or engine, prohibited.

§ 2. No person in the employment of any said corporation or officer, or intrusted with the care or possession of any such engine, or any freight or baggage car upon any said track, shall invite or solicit any such minor or other person to come, or be, or consent to his remaining upon any last-named car, or upon any engine, unless said minor or last-named person shall have the right by law or permission as aforesaid to go or remain upon such car or engine.

Punishment.

§ 3. And any person who shall violate either section of this act shall be guilty of a misdemeanor, and be liable to a fine not less than \$5 nor exceeding \$25, which may be imposed by any court or magistrate having jurisdiction of any misdemeanor; and the person so offending shall be further liable to imprisonment until such fine and costs of prosecution shall be paid.

Repeal.

§ 4. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAP. 490, LAWS OF 1885.

AN ACT concerning tramps.

* * * * *
Penalty for entering building without consent.

§ 4. Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglar's tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the State prison, shall be deemed guilty of felony, and on conviction, shall be punished by imprisonment in the State prison at hard labor for not more than three years.

CHAP. 470, LAWS OF 1857.

AN ACT to prevent frauds in the sale of tickets to passengers upon railroads, steamboats and steamships.

Sale of tickets.

SECTION 1. No person other than the agents or employees of railroad, steamboat or steamship companies of this State, duly appointed by them for that purpose, by a proper authority in writing, shall offer for sale, or sell within this State, any ticket or tickets or any printed or written instrument issued by or purporting to have been issued by any railroad, steamboat or steamship company, in this State or elsewhere, for the transportation of any passenger or passengers, upon any such railroad, steamboat or steamship, or any instrument wholly or partly printed or written, delivered for the purpose or upon the pretense of the procurement to such passenger or passengers, of any such ticket or tickets, or in any other manner charge, take or receive any money as a consideration or price for such passage or for the procurement of such passage ticket or tickets; and no ticket or tickets, or other evidence as aforesaid, shall be sold or offered for sale by the said agents or employees, except at the offices designated for that purpose by the said companies respectively,

or at offices conveniently located by agents of other duly organized railway companies, and at prices not exceeding their regular established rates, provided that nothing in this amendment shall apply to the city and county of New York, or the county of Kings. (*Amended by chap. 820, Laws of 1868.*)

Violation of act.

§ 2. Whenever any person or persons shall be complained of and arrested for violating any of the provisions of the first section of this act, it shall be the duty of the magistrate, before whom such complaint is made, to take and reduce to writing, in the presence of the person or persons complained of, the evidence of any witness which may be offered, either on behalf of the prosecution or the party accused, and the depositions so taken shall be respectively subscribed by the witnesses making the same, and certified by the magistrate; and when so taken and certified, the said depositions shall be filed in the office of the clerk of the county in which the same shall be taken. Upon the trial of any person or persons charged with any offense under the provisions of this act, the testimony taken as aforesaid may be read by either party, with the like effect as if the said witness or witnesses were sworn in open court upon said trial, provided it shall appear therein that the witness or witnesses were, at the time of taking the same, residents of another State, territory or province, or are emigrating from a foreign country, or are residents of this State, and on their way to some other State, territory or province.

Penalty.

§ 3. Any person violating the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor, and be punished by a fine of not less than \$100, or by imprisonment of not less than three months, or by both such fine and imprisonment.

CHAP. 167, LAWS OF 1877.

AN ACT in relation to the indictment and punishment of criminal offenses committed on railroads within the State.

Where indictments for any crime or offense committed on railroads may be found.

SECTION 1. When any crime or offense shall have been committed within this State, on, in or on board of any railroad train or railroad car making any passage or trip on or over any railroad in this State, or in respect to any portion of the lading or freight of any such railroad train or railroad car, an indictment for the same may be found in any county through which, or any part of which such railroad train or railroad car shall pass, or shall have passed in the course of the same passage or trip, or in any county where such passage or trip shall terminate, or would terminate if completed; and such indictment may be tried and a conviction thereon had, and all other proceedings to bring the offender to punishment may be had, in any such county, in the same manner and with the like effect, as in the county where the offense or crime was committed.

CHAP. 585, LAWS OF 1880.

AN ACT for the prevention of accidents to children.

No minor child to be allowed to ride on platform, steps, etc.

SECTION 1. No minor child within this State not being a passenger shall be allowed upon the platform or steps of any railroad car drawn by steam, or of any omnibus, street car or other vehicle drawn by horses, and the parents or guardians of any child who shall permit such child to ride or play upon the steps or platform of any such railroad car, omnibus, street car or other vehicle, shall be punished on conviction by a fine not less than \$5 nor more than \$10.

Duty of policemen and constables to arrest.

§ 2. It shall be the duty of all constables and policemen within this State to arrest any child or children violating the provisions of this act. And any such child or children shall likewise on conviction be punished by a fine not exceeding \$5 for each offense.

CHAP. 186, LAWS OF 1880.**AN ACT to repress and punish disorderly conduct on public conveyances.**

Disorderly conduct on railroad car, etc., a misdemeanor; police justice or justice of the peace in city or county in which disorderly act committed to have jurisdiction.

SECTION 1. Any person who shall by any offensive or disorderly act, or language, annoy or interfere with the passengers of any public stage, railroad car, ferry-boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor, and any police justice or justice of the peace of the city or county in which any of such acts shall be committed shall have jurisdiction thereof.

CHAP. 261, LAWS OF 1878.**AN ACT to prevent accidents on railroads operated by steam power in the State of New York.**

Any person getting on or off freight or wood car while in motion, or unlawfully riding on same, guilty of a misdemeanor; penalty.

SECTION 1. Any person or persons who shall get on or off a freight car or engine while in motion, or who shall ride on any wood or freight car unless employed by or with permission from the proper officers of such railroad, or the person in charge of such car or engine, shall be deemed guilty of a misdemeanor, and shall be liable to a fine of twenty-five dollars or three months' imprisonment, or both fine and imprisonment.

CHAP. 628, LAWS OF 1857.**AN ACT to suppress intemperance and regulate the sale of intoxicating liquors.**

Intemperate persons to be refused employment by all incorporated companies engaged in conveying passengers, especially railroad, steamboat and ferry companies; penalty for keeping such persons in employment.

* * * * *

§ 31. All incorporated companies and persons in this State, engaged in conveying passengers, including especially all railroad, steamboat and ferry companies and all kinds of corporations conveying for hire, persons or property, shall be and hereby are required to refuse employment to all persons who, on good and sufficient proof, shall be shown to indulge in the intemperate use of intoxicating drinks, and any such company which shall retain in its employ any person or persons who shall, on competent proof, be shown to be intoxicated at any period whilst in the active service of said company or person, either as engineer, conductor, fireman, switch-tender, commander, pilot, mate or foreman, or be in any way connected with the moving power or management, or whose duty, if neglected, would diminish the safety and security of life, limb or property, intrusted

thereto, said company or corporation shall be liable to pay a sum of not less than fifty dollars nor more than one hundred dollars to the county treasurer in the county where the offense may be committed and proved, before any court of competent jurisdiction.

* * * * *

CHAP. 499, LAWS OF 1855.

AN ACT in relation to the stealing and forging of railroad tickets.

Conviction of person stealing, taking and carrying away railroad passenger tickets, larceny.

SECTION 1. Every person who shall be convicted of stealing, taking and carrying away any railroad passenger ticket or tickets, prepared for sale to passengers, previous to or after the sale thereof, being the personal property of any railroad company, or of any other corporation or corporations, or of any person or persons, shall be adjudged guilty of grand or petit larceny, as prescribed in the next following section.

Where price of ticket authorized to be charged exceeds twenty-five dollars, grand larceny; punishment; where twenty-five dollars or under, petit larceny; punishment.

§ 2. If the price or prices authorized to be charged for such ticket or tickets, on a sale thereof, shall exceed the sum of twenty-five dollars, such price or prices shall be deemed the value of such ticket or tickets, and the offense of stealing, taking and carrying away the same shall be adjudged grand larceny, and the person convicted of the same shall be imprisoned in a State prison for a term not exceeding five years; but if such price or prices shall only amount to twenty-five dollars or under, the offense of stealing, taking and carrying away such ticket or tickets shall be adjudged guilty of petit larceny, and the person convicted of the same shall be punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one hundred dollars, or by both such fine and imprisonment.

What are railroad tickets.

§ 3. Railroad passenger tickets of any railroad company, as well before the same shall have been issued to its receivers or other agents for sale as after, and whether indorsed by such receivers or other agents or not, are to be deemed railroad tickets within the meaning of this act.

Forged tickets; punishment.

§ 4. Every person who shall be convicted of having forged, counterfeited or falsely altered any railroad ticket mentioned or referred to in either of the preceding sections of this act, or of having sold, exchanged or delivered for any consideration, any such forged or counterfeited railroad ticket, knowing the same to be forged or counterfeited, with intent to injure or defraud; or of having offered any such forged or counterfeited railroad ticket for sale, exchange or delivery, for any consideration, with the like knowledge and intent, or of having received any such forged or counterfeited railroad ticket upon a sale, exchange or delivery, for any consideration, with the like knowledge and intent, shall be adjudged guilty of forgery in the third degree, and shall be punished in like manner as is prescribed by law in cases of conviction of forgery in the third degree.

Id.; penalty.

§ 5. Every person who shall have in his possession any such forged or counterfeited railroad ticket as mentioned or referred to in the next preceding section, knowing the same to be forged, counterfeited or falsely altered, with intention to injure or defraud by uttering the same as true or false, or by causing the same to be uttered, or by the use of the same to procure a passage in the cars of the railroad company by which such ticket purports to have been issued, shall be subject to the punishment provided by law for forgery in the fourth degree.

CHAP. 590, LAWS OF 1872.

AN ACT to regulate processions and parades in the cities of the State of New York.

No procession or parade to interfere with free passage of cars upon street railways.

SECTION 1. No procession or parade shall use any street upon the surface of which is a railway track or tracks by marching upon the said track or tracks, and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said procession which in so marching is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed.

* * * * *

Penalty.

§ 4. Every person willfully violating any provision of this act shall be guilty of a misdemeanor, punishable with a fine not exceeding \$20, or imprisonment not exceeding ten days, or both at the discretion of the court.

CHAP. 474, LAWS OF 1879.

AN ACT to prevent the delaying of passengers on street railroad cars, and to prohibit obstructing the free passage of street railroad cars.

Obstructing street cars a misdemeanor.

SECTION 1. Every person who shall willfully obstruct, hinder or delay the passage or running of any car lawfully running upon any horse or street railroad in this State, shall be deemed guilty of a misdemeanor.

CHAP. 399, LAWS OF 1881.

AN ACT to provide against accidents on elevated railroads.

Trains to come to full stop, etc.

SECTION 1. All trains upon elevated railroads shall come to a full stop before any passenger shall be permitted to leave such trains; and no train on such railroad shall be permitted to start until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the platform or station at which such train has stopped, and desiring to board or enter such cars shall have actually boarded or entered the same; provided that nothing herein contained shall be construed to permit any person to board or enter any train after due notice from an authorized employee of such railroad corporation that such train is full, and that no more passengers can be then received.

Gates, construction of, etc.

§ 2. Every car used for passengers upon elevated railroads, shall have gates at the outer edges of its platforms, so constructed that they shall when opened, be caught and held open by such catch or spring as will prevent their swinging against and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

Penalty for violation of this act.

§ 3. Any agent, conductor, engineer, brakeman or employee of such railroad corporation, who shall start any train or car, or give any signal or order to any engineer or other person, by signal, rope or otherwise, to start any train or car, or who shall obstruct the ingress or egress of any passenger to or from any car, or who shall open or close a platform gate of any car, in violation of this act, shall be deemed guilty of a misdemeanor, and shall upon conviction be held liable to pay a fine of not less than twenty-five nor more than one hundred dollars, or be imprisoned for not less than ten nor more than ninety days, or both; and any elevated railroad corporation that shall fail or neglect to comply with, or enforce the provisions of this act, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation and proof of such failure or neglect, pay to the clerk of the court wherein such petition is made a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order; and the sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which such proceeding is had, at such times as the board of supervisors or board of aldermen in such county shall direct.

Construction of act.

§ 4. Nothing in this act shall be construed to relieve the elevated railroad companies from any liability under which they may now be held by existing laws for damages to persons or property.

This act to be printed and posted in depots, stations and cars.

§ 5. The officers and board of directors of such railroad corporations shall immediately cause copies of this act to be printed and posted conspicuously in the depots or stations and in each car belonging to them.

CHAP. 529. LAWS OF 1887.

AN ACT to regulate the hours of labor in the street surface and elevated railroads chartered by the State, in cities of 100,000 inhabitants and over.

Hours of labor on surface street and elevated railroads.

SECTION 1. Ten hours' labor to be performed within twelve consecutive hours, with reasonable time for meals, shall constitute a day's labor in the operation of all street surface and elevated railroads owned or operated by corporations incorporated under the laws of this State, whose main line of travel, or whose routes lie principally within the corporate limits of cities of more than 100,000 inhabitants, whatever motive power may be used in the operation of such railroads.

Violation of act a misdemeanor.

§ 2. It shall be a misdemeanor for any officer or agent of any such corporation to exact from any of its employees more than ten hours' labor, the same to be performed within twelve consecutive hours, with not less than one-half hour for dinner, constituting a day; provided, however, that in cases of accident or unavoidable delay, extra labor may be permitted for extra compensation.

How applicable.

§ 3. This act shall not affect contracts now in force, nor apply to existing corporations whose charters are not subject to alteration, modification or repeal.

Repeal.

§ 4. All acts inconsistent with this act are hereby repealed.

(This act supersedes chap. 151, Laws of 1886.) As to street roads see, also, chap. 418, Laws of 1880. As to elevated roads see, also, chap. 338, Laws of 1881.

THE CODE OF CRIMINAL PROCEDURE OF THE STATE OF NEW YORK.

SECTIONS APPLICABLE TO RAILROAD COMPANIES.

Courts of special sessions, jurisdiction of.

SECTION 1. Section fifty-six of the Code of Criminal Procedure is hereby amended so as to read as follows:

§ 56. Subject to the power of removal provided for in this chapter, courts of special sessions, except in the city and county of New York and the city of Albany, have in the first instance exclusive jurisdiction to hear and determine charges of misdemeanors committed within their respective counties, as follows:

* * * * *
9. Intoxication of a person engaged in running any locomotive engine upon any railroad, or while acting as a conductor of a car or a train of cars on any such railroad.
* * * * *

23. Unlawfully frequenting or attending a steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction room, store, auction sale at private residence, passenger car, hotel, restaurant, or any other gathering of people. (*Thus amended, Laws 1886, chap. 28.*)

Of crime committed in the State on board of any railway train, etc.

§ 137. When a crime is committed in this State, in or on board of any railway engine, train or car, making a passage or trip on or over any railway in this State, or in respect to any portion of the lading or freightage of any such railway train or engine car, the jurisdiction is in any county through which, or any part of which, the railway train or car passes, or has passed, in the course of the same passage or trip, or in any county where such passage or trip terminates, or would terminate if completed.

Plea of guilty, how put in.

§ 335. A plea of guilty can only be put in by the defendant himself in open court, except upon an indictment against a corporation, in which case it may be put in by counsel.

Summons upon an information or presentment against a corporation, by whom issued, and when returnable.

§ 675. Upon an information against a corporation, the magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge; the time to be not less than ten days after the issuing of the summons.

(3 R. S. 1046, §§ 56, 57, 58.)

Form of the summons.

§ 676. The summons must be in substantially the following form:

"County of *Albany*, [or as the case may be.]

"In the name of the people of the State of New York:

"To the [naming the corporation.]

"You are hereby summoned to appear before me, at [naming the place], on [specifying the day and hour], to answer a charge made against you, upon the information of *A. B.*, for [designating the offense, generally].

"Dated at the *city*, [or 'town,'] of _____ the _____ day of _____ 18__.

"G. H., Justice of the Peace."

[Or as the case may be.]

When and how served.

§ 677. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.

Examination of the charge.

§ 678. At the time appointed in the summons, the magistrate must proceed to investigate the charge, in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.

Certificate of the magistrate, and return thereof with depositions.

§ 679. After hearing the proofs, the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate, in the manner prescribed in section 221.

Grand jury may proceed as in the case of a natural person.

§ 680. If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in the case of a natural person held to answer.

Appearance, and plea to indictment, and proceedings thereon.

§ 681. If an indictment be found against a corporation, it may appear by counsel, to answer the same. If it do not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.

Fine, on conviction how collected.

§ 682. When a fine is imposed upon a corporation, on conviction, it may be collected by virtue of the order imposing it, by the sheriff of the county, out of their real and personal property, in the same manner as upon an execution in a civil action.

THE PENAL CODE OF THE STATE OF NEW YORK.

PORTIONS THEREOF APPLICABLE AND RELATING TO RAILROAD CORPORATIONS.

Compelling employee to agree not to join any labor organization a misdemeanor.

SECTION 171A. Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employee or employees, laborer or mechanic, to enter into an agreement, either written or verbal from such person, persons, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment. (*Chap. 688, Laws of 1887.*)

Use of force or violence declared not unlawful in certain cases, etc.

Subdivision 5, section 223.

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety.

* * * * *

Advising or inducing employees not to wear uniform a misdemeanor.

§ 425. A person who,

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority;

Is guilty of a misdemeanor.

(2 R. S. 534, § 40; 2 R. S.; 560, § 143; Laws of 1867, chap. 483, § 1.)

Arson in second degree.

§ 487. A person who,

* * * * *

4. Willfully burns, or sets on fire, in the night-time, a car, vessel or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time.

* * * * *

Arson in third degree.

§ 488. A person who willfully burns, or sets on fire, either,

1. A vessel, car, or other vehicle, or a building, structure or other erection, which is at the time insured against loss or damage by fire, with intent to prejudice the insurer thereof; or,
2. A vessel, car or other vehicle, or a building, structure or other erection under circumstances not amounting to arson in the first or second degree.

Burglary in third degree.

§ 498. A person who either,

1. With intent to commit a crime therein, breaks and enters a building, or room, or any part of a building; or,
2. Being in any building, commits a crime therein and breaks out of the same;

Is guilty of burglary in the third degree.

(S. R. S. 241, §§ 18, 19.)

Unlawfully entering building.

§ 505. A person who, under circumstances or in a manner not amounting to a burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

"Building," defined.

§ 504. The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop or other erection or inclosure.

Riding on freight or wood trains; getting on car or train while in motion; obstructing, etc., horse or street railroad cars; punishment.

§ 426. A person who,

1. Rides on any engine or any freight or wood car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of the car or engine; or,
 2. Who gets on any car or train while in motion, for the purpose of obtaining transportation thereon as a passenger; or,
 3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any horse or street railway;
- Is guilty of a misdemeanor.

(Laws of 1871, chap. 261; Laws of 1879, chap. 474; Laws of 1880, chap. 370.)

Penalty for attempting to forward any explosive by railroad without revealing true nature thereof.

§ 389. A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village is guilty of a misdemeanor. And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment for not more than two years. Any person or persons who shall knowingly present, attempt to present, or cause to be presented or offered for shipment, to any railroad, steamboat, steamship, express or other company engaged as common carriers of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosive, or substance so offered or attempted to be offered to the company or carrier to which it shall be presented shall be guilty of a felony, and upon conviction shall be fined in any sum not exceeding one thousand dollars and not less than three hundred dollars or imprisonment in a State prison for not less than one nor more than five years or be subject to both such fine and imprisonment. (As amended by chap. 689, Laws of 1887.)

Endangering life by maliciously placing explosive near building, car, etc.

§ 645. A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive

substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

(See §§ 201, 389, 636.)

Immigrants; sales and exchanges of passenger tickets.

§ 626. A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway, vehicle or vessel, to any immigrant passenger at a higher rate than one and a quarter cents per mile; or,

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or,

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or,

4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or,

5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship;

Is guilty of a misdemeanor.

(1 R. S. 1087, §§ 78, 79, 81, Laws of 1853, chap. 218, §§ 7, 8, 9; Laws of 1855, chap. 474, §§ 1, 3, 4.)

"Company" defined.

§ 627. The term "company," as used in this chapter, includes all corporations, whether created under the laws of this State or of the United States, or those of any other State or nation.

(Laws of 1860, chap. 103, § 13.)

Forging passage tickets.

§ 516. A person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, cheque or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

(3 R. S. 954, §§ 93, 94; Laws of 1860, p. 177, chap. 103.)

Injury to railroad track, etc., how punished.

§ 635. A person who,

1. Displaces, removes, injures or destroys a rail, sleeper, switch, bridge, viaduct, culvert, embankment or structure, or any part thereof, attached or appertaining to or connected with a railway, whether operated by steam or by horses; or,

2. Places any obstruction upon the track of such a railway; or

3. Willfully discharges a loaded fire-arm, or projects or throws a stone or any other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway;

Is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment for not more than ten years.

2. In every other case, by imprisonment for not more than three years, or by a fine of not more than \$250, or both.

(3 R. S. 966, § 26; Laws of 1877, chap. 261, § 1.)

Altering, etc., signal or light for railway engine or train.

§ 638. A person who, with intent to bring a vessel, railway engine, or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters, or removes a light or other signal; or

2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

Frauds in subscriptions for stock of corporations.

§ 590. A person who signs the name of a fictitious person to any subscription for, or agreement to take, stock in any corporation existing or proposed; and a person who signs to any subscription or agreement the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

§ 615 repealed; Laws, 1882.

Sale by authorized agents restricted.

§ 616. No person, except as allowed in section 622, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument, giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent, sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from using the same, may sell the ticket at any price not greater than the regular rate established therefor to another person in good faith for his own use.

(Laws of 1860, chap. 103, § 2; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

Unauthorized persons forbidden to sell certificates, receipts, etc., for the purpose of procuring tickets.

§ 617. No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument, for the purpose, or under the pretense, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees at their office.

(Laws of 1860, chap. 103, § 3; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

Punishment for violation of the preceding sections.

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a State prison not exceeding two years, or by imprisonment in a county jail not less than six months.

(Laws of 1860, chap. 103, § 4; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

Conspiring to sell passage tickets in violation of law.

§ 619. All persons who conspire together to sell, or attempt to sell, to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons who, by means of any such conspiracy, obtain, or attempt to obtain, any money or other property, under the pretense of procuring or securing any passage or

right of passage in violation of this chapter, are punishable by imprisonment in a State prison not exceeding five years.

(Laws of 1860, chap. 103, § 5; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1870, chap. 103, § 5; Laws of 1870, chap. 423.)

Conspirators may be indicted, notwithstanding object of conspiracy has not been accomplished.

§ 620. Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

(Laws of 1860, chap. 103, § 6; Laws of 1870, chap. 423, § 6; see § 171.)

Offices kept for unlawful sale of passage tickets, declared disorderly houses.

§ 621. All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chapter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter, are punishable by imprisonment in a county jail, for a period not exceeding six months, and not less than three months.

(Laws of 1860, chap. 103, § 7; Laws of 1870, chap. 423.)

Station masters, conductors, etc., allowed to sell tickets.

§ 623. The provisions of this chapter do not prevent the station master or other ticket agent upon any railway, from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

Liability of persons in charge of steam engines.

§ 199. An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

(3 R. S. 934, § 21; Id. 973, § 31; 2 R. S. (Edm.) 717, § 25; 1 Whart. Cr. Law, § 362; see, also, §§ 362, 424, *post*.)

Mismanagement of steam boilers.

§ 362. An engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam employed in a railway, manufactory, or other mechanical works, who, willfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

(3 R. S. 973, § 31; see § 199, *ante*.)

Employment of engineer who cannot read.

§ 418. A person who, as an officer of a corporation or otherwise, knowingly employs as an engineer or engine driver to run locomotives or trains on any railway in this State a person who cannot read the time-tables and ordinary handwriting, is guilty of a misdemeanor.

(2 R. S. 534, § 42; Laws of 1870, chap. 636, §§ 1, 3.)

Person acting as engineer who cannot read.

§ 419. A person who, being unable to read the time-tables of the road and ordinary handwriting, acts as an engineer, or runs a locomotive or train on any of the railways in this State, is guilty of a misdemeanor.

(2 R. S. 534, § 43; Laws of 1870, chap. 636, §§ 2, 3.)

Intoxication of persons running trains and boats.

§ 420. A person who, being employed upon any railway as engineer, conductor, baggage-master, brakeman, switch-tender, fireman, bridge-tender, flagman, signal-man, or having charge of stations, starting, regulating or running trains upon a railway, or being employed as captain, engineer or other officer of a vessel propelled by steam is intoxicated while engaged in the discharge of any of such duties, is guilty of a misdemeanor.

(2 R. S. 941, § 39; Laws of 1867, chap. 628, § 31; Laws of 1871, chap. 560; Code Crim. Proc., § 56.)

Failure to ring bell, etc.

§ 421. A person acting as engineer driving a locomotive on any railway in this State, who fails to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, is guilty of a misdemeanor.

(2 R. S. 542, § 61; Laws of 1850, chap. 140, § 61; Laws of 1854, chap. 232.)

Placing passenger car in front of merchandise or freight car.

§ 422. A person, being an officer or employee of a railway company, who knowingly places, directs, or suffers a freight, lumber, merchandise, or oil car to be placed in rear of a car used for the conveyance of passengers in a railway train, is guilty of a misdemeanor. (*Thus amended, Laws of 1889, chap. 267.*)

Platforms.

§ 423. A railway company, and any officer or director having charge thereof, and any person managing a railway in this State, or which runs its cars into or through this State, who fails to have the platforms or ends of the passenger cars constructed in such a manner as will prevent passengers falling between the cars when in motion, is guilty of a misdemeanor.

(2 R. S. 560, § 143; Laws of 1867, chap. 483.)

Other violations of duty by officers, agents or servants of railroad companies.

§ 424. An engineer, conductor, brakeman, switch-tender or other officer, agent or servant of any railway company, who is guilty of any willful violation or omission of his duty as such officer, agent or servant, by which human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor.

(Laws of 1867, chap. 483, § 1, in part; see § 199, *ante*.)

Officer of corporation selling, etc., forged or fraudulent scrip, etc.

§ 518. An officer, agent or other person employed by any company or corporation existing under the laws of this State, or of any other State or territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding \$3 000.

(3 R. S. 946, §§ 49, 50; § 591, *post*.)

Falsely indicating person as corporate officer.

§ 519. The false making or forging of an instrument or writing, purporting to have been issued by or in behalf of a corporation or association,

State or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree, as if that person were in truth such officer or agent of the corporation or association, State or government.

(3 R. S. 946, § 48; 2 R. S. (Edm.) 695, § 47; Laws of 1855, chap. 155.)

Terms "forge" and "forging."

§ 520. The expression "forge," "forged" and "forging," as used in this chapter, include false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

(3 R. S. 946, § 44.)

Fraudulent issue of stock, scrip, etc.

§ 591. An officer, agent or other person in the service of any joint-stock company, or corporation formed or existing under the laws of this State, or of the United States, or of any State or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either,

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes, or causes to be signed or executed, with intent to sell, pledge or issue, or to cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first thereto duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares;

Is punishable by imprisonment for not less than three years nor more than seven years, or by a fine not exceeding \$3,000, or by both.

(Laws of 1855, chap. 155, §§ 1, 2.)

Frauds in procuring organization of corporation, or increase of capital.

§ 592. An officer, agent or clerk, of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a State prison not exceeding ten years and not less than three years.

(See Laws of 1829, chap. 94, § 29.)

Misconduct of directors of stock corporations.

§ 594. A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended.

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw, or in any manner pay to the stockholders, or any of them, any part of the capital stock of the corporation; or to reduce such capital stock without the consent of the Legislature; or,

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or,

5. To apply any portion of the funds of such corporation, except surplus, profits, directly or indirectly, to the purchase of shares of its own stock; or,
 6. To receive any such shares in payment or satisfaction of a debt due to such corporation; or,
 7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock or notes, bonds or other evidences of debt issued by any other stock corporation;
- Is guilty of a misdemeanor.

(2 R. S., 297, § 1; Laws of 1869, chap. 742, § 7.)

Frauds in keeping accounts, etc.

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent or member of any corporation or joint-stock association, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a State prison not exceeding ten years, and not less than three years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$500, or by both such fine and imprisonment.

(Laws of 1829, chap. 94, § 29; Laws of 1843, chap. 218, § 6.)

Officer of corporation publishing false reports of its condition.

§ 603. A director, officer or agent of any corporation or joint-stock association, who knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere, by this Code, specially made punishable, is guilty of a misdemeanor.

(Laws of 1874, chap. 440, §§ 1, 2.)

(Sections 607 and 608 repealed by chapter 377, Laws of 1884.)

Director of corporation presumed to have knowledge of its affairs.

§ 609. A director of a corporation or joint-stock association must be deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors, is a violation of this chapter.

(2 R. S., 299, § 14.)

Director present at meeting, when presumed to have assented to proceedings.

§ 610. A director of a corporation, or joint-stock association, who is present at a meeting of the directors, at which any act, proceeding or omission of such directors in violation of this chapter occurs, must be deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

(2 R. S., 299, §§ 12, 13.)

Director absent from meeting, when presumed to have assented to proceedings.

§ 611. A director of a corporation, or joint-stock association, although not present at a meeting of the directors, at which any act, proceeding or omission of such directors, in violation of this chapter, occurs, must be deemed to have concurred therein, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the same company for six months thereafter, without causing, or in writing requiring, his dissent from such illegality to be entered in the minutes of the directory.

Failure of director to disclose service of notice of application for injunction.

§ 612. A director, trustee or other officer of a joint-stock association or corporation, upon whom a notice of application for an injunction affecting the property or business of such joint-stock association or corporation is served, who omits to disclose to the other directors, officers or managers thereof, the fact of such service, and the time and place of such application, is guilty of a misdemeanor.

(Laws of 1870, chap. 151, § 1.)

Foreign corporations subject to provisions of this chapter.

§ 613. It is no defense to a prosecution for violation of the provisions of this chapter, that the corporation was one created by the laws of another State, government or country, if it carried on business, or kept an office therefor, within this State.

"Director" defined.

§ 614. The term "director," as used in this chapter, embraces any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter, or are known in law.

(2 R. S. 304, § 56.)

Carrying animals in a cruel manner, a misdemeanor.

§ 659. A person who carries, or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

(3 R. S. 974, § 38; Laws of 1880, chap. 209; Laws of 1867, chap. 375, § 5; § 663, *post*.)

Transporting animals for more than twenty-four consecutive hours a misdemeanor.

§ 663. A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee, or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereupon for such expense.

(3 R. S. 974, § 38; Laws of 1866 chap. 560, § 1.)

Definitions.

§ 669. 1. The word "animal," as used in this title, does not include the human race, but includes every other living creature;

2. The word "torture" or "cruelty" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted;

3. The words "impure and unwholesome milk" include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

(3 R. S. 976, § 51; Laws of 1874, chap. 12, § 8; Laws of 1862, chap. 467, § 4.)

Innkeepers and carriers refusing to receive guests and passengers.

§ 381. A person who, either on his own account or as agent or officer of a corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor.

(See § 382, *post*.)

No exclusion because of race, color, etc.

§ 383. No citizen of this State can, by reason of race, color, or previous condition of servitude, be excluded from the equal enjoyment of any accommodation, facility or privilege furnished by innkeepers or common carriers, or by owners, managers, or lessees of theaters or other places of amusement by teachers and officers of common schools and public institutions of learning, or by cemetery associations. The violation of this section is a misdemeanor, punishable by a fine of not less than \$50, nor more than \$500.

(1 R. S. 377, §§ 22-24; see § 381, *ante*.)

Issuing fictitious bills of lading, etc.

§ 628. A person being the master, owner or agent of any vessel, or officer or agent of any railway, express or transportation company, or otherwise being or representing any carrier who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

(2 R. S. 229; Laws of 1858, chap. 326, § 5; Laws of 1859, chap. 353; Laws of 1866, chap. 440.)

Erroneous bills of lading or receipts issued in good faith excepted.

§ 630. No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box, case, cask, or other vessel or package mentioned in the bill of lading, receipt or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

Duplicate receipts must be marked "duplicate."

§ 631. A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

Selling, hypothecating or pledging property received for transportation or storage.

§ 632. A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

(2 R. S. 229, § 4; Laws of 1858, chap. 326; Laws of 1859, chap. 353; Laws of 1866, chap. 440.)

Property demanded by process of law.

§ 634. The last two sections (§§ 632 and 633) do not apply to any case where property is demanded by virtue of legal process.

(2 R. S. 229, § 5.)

INTERSTATE COMMERCE ACT.

APPROVED FEBRUARY 4, 1887, AND AS AMENDED BY ACT APPROVED MARCH 2, 1889.

Carriers and transportation subject to the act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: Provided, however, That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

What the terms "railroad" and "transportation" include.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

Charges to be reasonable.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

Unjust discrimination forbidden.

§ 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

Undue or unreasonable preference or advantage forbidden.

§ 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation,

or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Facilities for interchange of traffic.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

Long and short haul provision:

§ 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, that upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

Pooling of freights and division of earnings forbidden.

§ 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

Printing and posting of schedules of rates, fares, and charges.

§ 6. (*As amended.*) That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

Printing and posting of schedules of rates on freight carried through a foreign country.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to

public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

Ten days' public notice of advance in rates to be given; three days' public notice of reduction in rates to be given.

No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given.

Published rates not to be deviated from.

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

Copies of schedules of rates, fares and charges to be filed with Commission; copies of contracts and agreements to be filed with Commission; joint tariffs to be filed with Commission; power of Commission to prescribe publicity.

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements, with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

Ten days' notice to Commission of advance in joint rates, fares; and charges; three days' notice to Commission of reduction in joint rates, fares, and charges; power of Commission to make advances or reductions public.

No advance shall be made in joint rates, fares, and charges, shown upon joint tariffs, except after ten days' notice to the Commission, which

shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect. No reduction shall be made in joint rates, fares, and charges, except after three days' notice, to be given to the Commission as is above provided in the case of an advance of joint rates. The Commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

Joint rates, fares, and charges not to be deviated from.

It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon than is specified in the schedule filed with the Commission in force at the time.

Commission may prescribe forms of schedules of rates, fares, and charges.

The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

Penalties for neglecting or refusing to file or publish rates, fares, and charges.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties, herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

Continuous carriage of freights not to be unnecessarily interrupted.

§ 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

Liability of common carriers for damages.

§ 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter or

thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

Persons claiming to be damaged may complain to Commission or bring suit in United States courts: officers, etc., of defendant may be compelled to testify.

§ 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Penalties for violations of act by carriers, their officers or agents; fine and imprisonment.

§ 10. (*As amended.*) That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense: *Provided*, that if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

Penalties for false billing, etc., by carriers, their officers or agents; fine and imprisonment.

Any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the

United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

Penalties for false billing, etc., by shippers and other persons; fine and imprisonment.

Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

Penalties for inducing common carriers to discriminate unjustly: fine and imprisonment; joint liability with carrier for damages.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable jointly or severally, in an action on the case to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.

Interstate Commerce Commissioners—how appointed; terms of Commissioners.

§ 11. That a Commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners

shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

Power of Commission to inquire into business of carriers; Commission required to enforce the provisions of the act; power of the Commission to require attendance of witnesses and production of books and papers.

§ 12. (*As amended.*) That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the Commission, it shall be the duty of any district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the Commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and in case of disobedience to a subpoena, the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

Punishment for refusal to testify or produce books and papers.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Complaints to Commission; how and by whom made; reparation by carriers before investigation; investigations by the Commission.

§ 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

Findings of Commission prima facie evidence in judicial proceedings.

§ 14. (*As amended.*) That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

Reports and decisions; authorized publication to be competent evidence; publication and distribution of annual reports of Commission.

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained, in all courts of the United States, and of the several States, without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports.

Notice to common carrier to cease from violation of act; compliance with notice to cease from violation of act; reparation.

§ 15. That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

Petition to United States courts in cases of disobedience to order of Commission; power of United States courts to hear and determine cases of disobedience; writs of injunction or other process against carriers in cases of disobedience; punishment for refusal to obey writs of injunction or other proper process; fine; appeals to Supreme Court of United States.

§ 16. (*As amended.*) That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate, or refuse or neglect to obey or perform any lawful order or requirement of the Commission created by this act, not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, it shall be lawful for the Commission or for any company or

person interested in such order or requirement, to apply in a summary way, by petition, to the Circuit Court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants in such manner as the court shall direct; and said court shall proceed to hear and determine the matter as speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said Commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of five hundred dollars for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining or into court, to abide the ultimate decision of the court, or into the treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the district attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Petition to United States courts in cases of disobedience when trial by jury is necessary; trial by jury; trial by court; appeals to Supreme Court of United States; counsel or attorney's fees.

If the matters involved in any such order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or

perform the same, after notice given by said Commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the Circuit Court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty, nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceedings is pending to forthwith serve a copy of said petition, and of said order, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said Commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury, the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of two thousand dollars or more, either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said Circuit Court. If the judgment of the Circuit Court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee, to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the Circuit Courts of the United States shall be deemed to be always in session.

Interstate Commerce Commission; form of procedure; official seal.

§ 17. (*As amended.*) That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations and sign subpoenas.

Salaries of Commissioners; secretary—how appointed; salary; offices and supplies; witnesses' fees.

§ 18. (*As amended.*) That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the Commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Expenses of the Commission—how paid.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees

under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the chairman of the Commission.

Principal office of the Commission; sessions of the Commission.

§ 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

Carriers subject to the act must render full annual reports to Commission; Commission may prescribe methods of keeping accounts.

§ 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet. Such report shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

Annual reports of the Commission to Congress.

§ 21. (*As Amended.*) That the Commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to Congress, and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary; and the names and compensation of the persons employed by said Commission.

Persons and property that may be carried free or at reduced rates; mileage, excursion, or commutation passenger tickets; passes and free transportation to officers and employees of railroad companies; pending litigation not affected by act.

§ 22. (*As Amended.*) That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this

act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangement with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act.

Jurisdiction of United States courts to issue writs of peremptory mandamus commanding the movement of interstate traffic or the furnishing of cars or other transportation facilities.

(*New section.*) That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement

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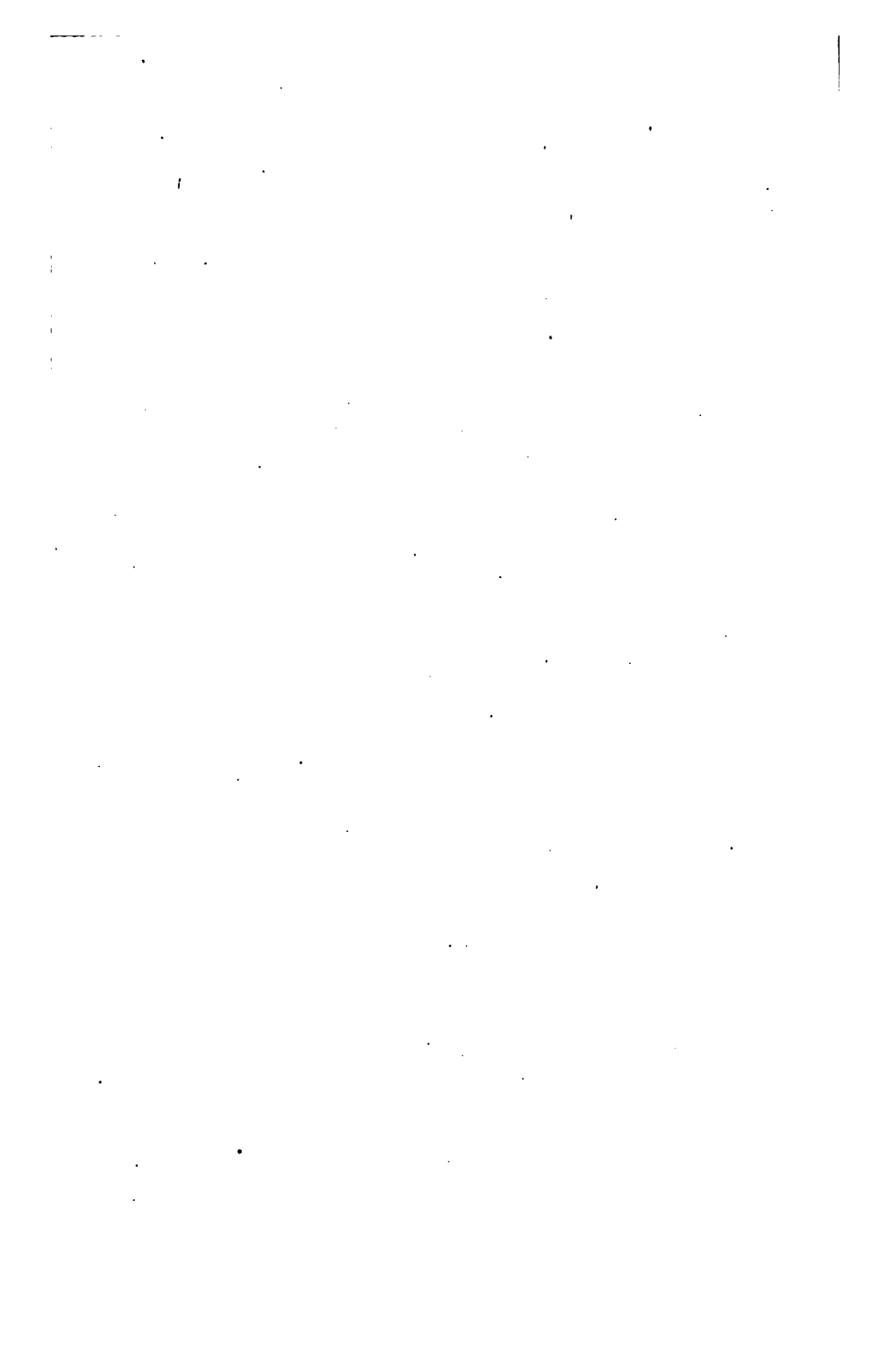
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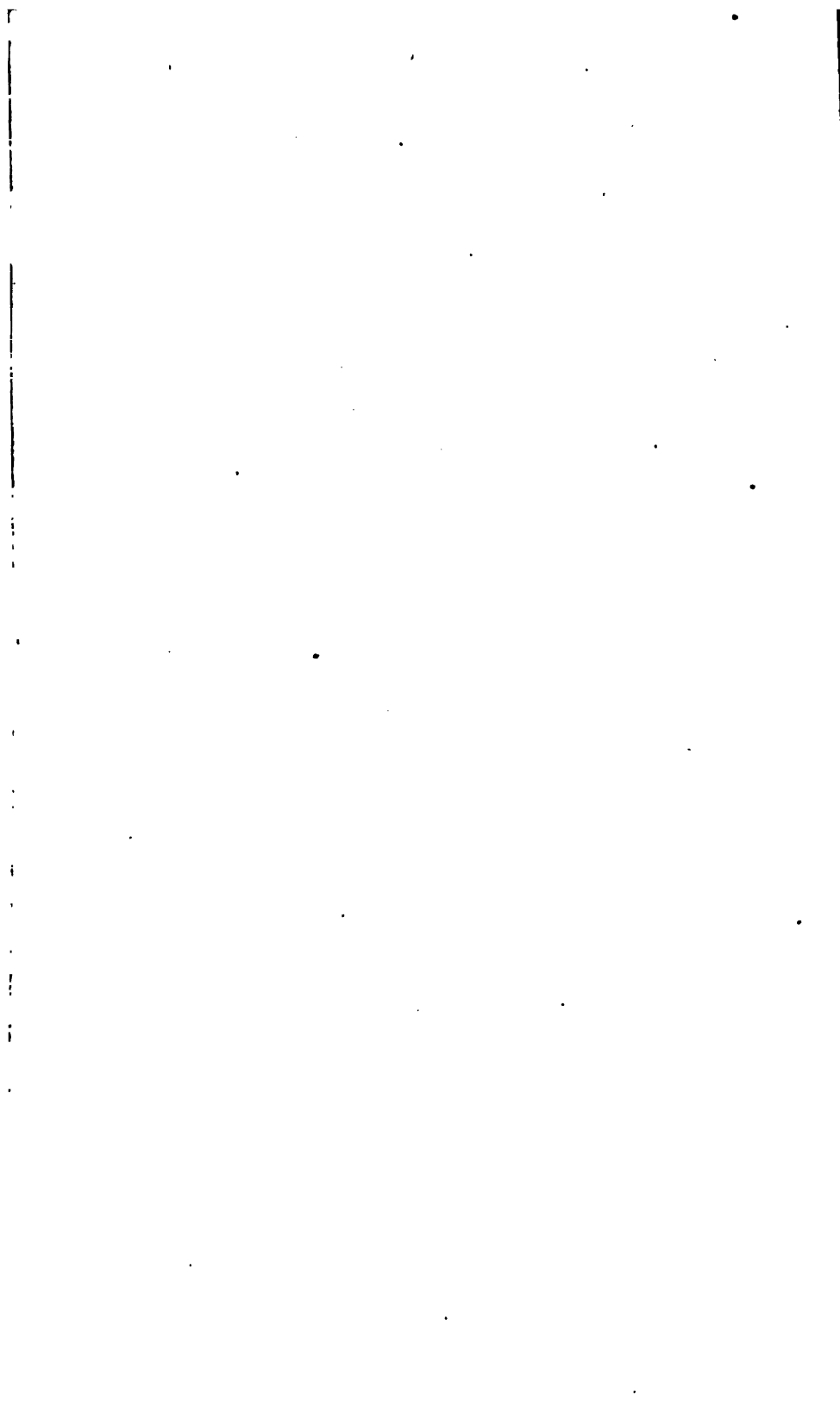
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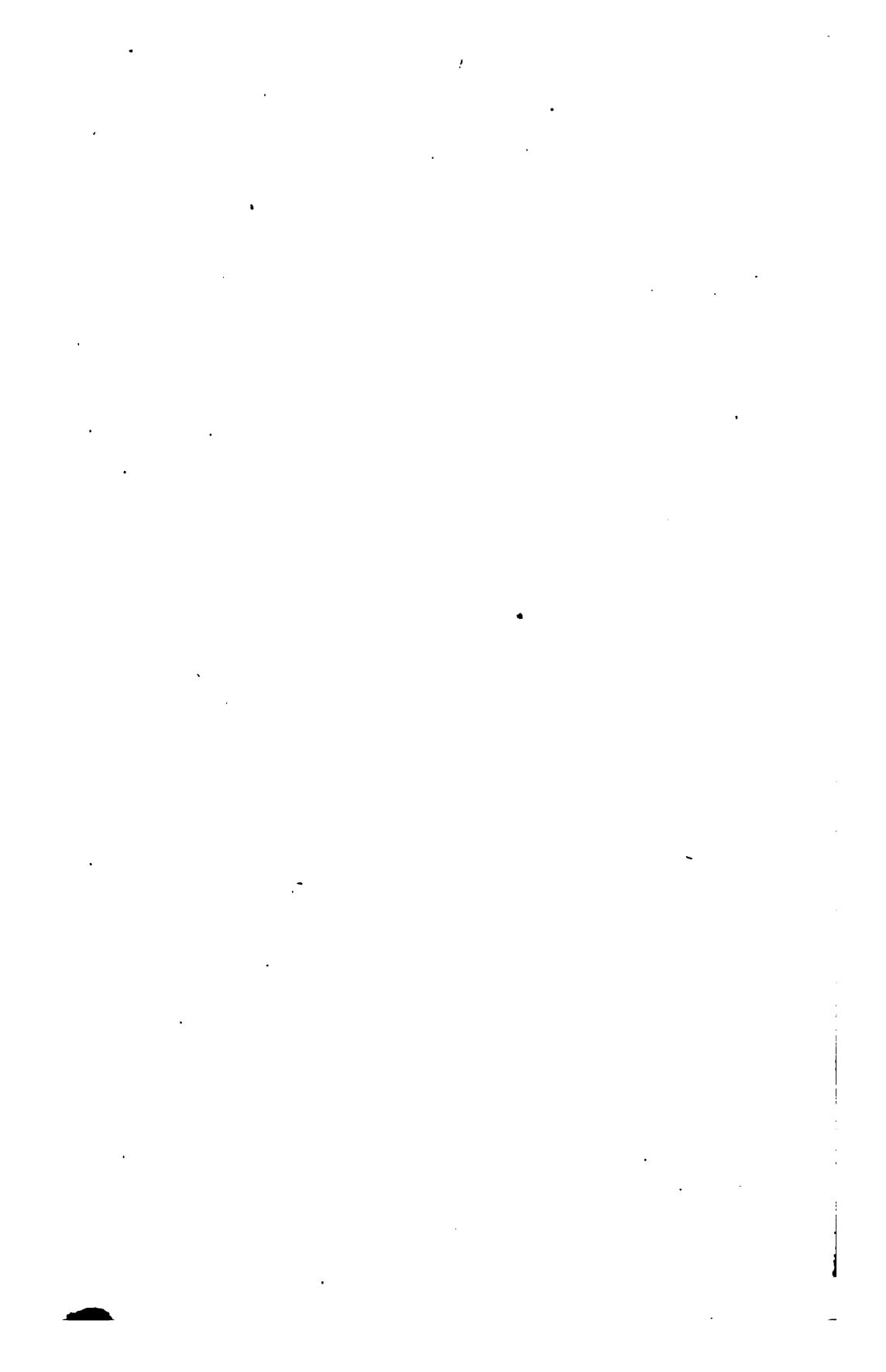
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